



MEETING OF THE COMMITTEE ON FLUORINATED GREENHOUSE GASES ESTABLISHED UNDER ARTICLE 24 OF REGULATION (EU) NO 517/2014

**3 June 2015, from 9:30 till 14:00,
Centre de Conference Albert Borschette Room 4B, Rue Froissart 36, Brussels**

Draft minutes

1. Adoption of the Agenda

The agenda was adopted with the following changes: Interpretation and enforcement issues were grouped together under one heading 4(c) and additional issues were added under this heading.

New colleagues from EE, BE, BG, CZ, IE, PT were welcomed.

2. Adoption of minutes from the meeting on 30 September 2014

PL asked about the status of the action points in Annex I of the minutes. COM replied that all 4 actions have been carried out and gave details on what was done. "Reference value" in the table in Annex I was corrected to "quotas" as that action point refers to new entrants only. With this change, the minutes were adopted.

3. Issues put to the Committee for information

COM gave a presentation [available on CIRCABC] on the following issues:

- (a) **Implementing the phase-down – state of play:** COM informed about the successful development and implementation of the HFC Registry (quota allocation, transfers, declarations for 2016, authorisations, link to reporting). The Fgas Portal is a one-stop shop for companies having to register in the HFC Registry and for Art. 19 reporting (link to EEA's BDR). Access for MS and customs has been enabled, but will be further improved through future updates. 1120 entities are now registered in the Fgas Portal incl. 899 undertakings and 193 customs authorities (as of 22 May).

One Court case is pending. A company challenged the calculation of its reference value (RV). If they win, it will have little implications on the phase-down. COM will have to adopt a new Commission Decision addressed to this company allocating a slightly higher RV. Compared to the total quota held by all companies the additional quota (ca. 50.000 CO₂ equivalents) would be insignificant.

COM further reminded the Committee how quotas will be calculated for the years 2016- 2017. The declaration period for 2016 quota is open until 30 June 2015.

New entrants will get a quota based on their declarations and the pro rate mechanism set out in Annex VI. In 2016 and 2017 incumbents will get $0.89 * 0.93 * RV$ (0.89 reflects that 11% is reserved for new entrants and 0.93 reflects the phase-down step for these years as given in Annex V). No top-ups from the New Entrants Reserve to incumbents can be expected. The Commission intend to upload the calculated quotas for 2016 in the HFC Registry in September 2015. COM also recalled how 2018 quotas would be determined for incumbents and new entrants after recalculation.

- (b) **Treatment of confidential data:** COM emphasised that information related to HFC quotas must be treated as strictly confidential. First, it is sensitive information having commercial value and second, any leak could damage the reputation of the EU HFC phase-down. In particular the confidential Annex to the Decision establishing reference values, and information in the HFC Registry on the allocated quotas and quotas currently held, should never be disclosed. COM reminded MS that ECAS passwords are strictly personal: any person having access to the HFC Registry should never share their login with any other person. A description of security good practices for users of the Fgas Portal is available on the entrance page of the Fgas Portal.

Also, COM informed that it had refused two requests for access to file asking for the names of New Entrants. Since almost all New Entrants got the same quota and since this amount is commonly known, disclosing the names would imply that COM would reveal their quota. This is not the case for incumbents whose quotas vary widely. New entrants will make themselves known when they sell gases and for enforcement purposes the relevant authorities have access to the information in the HFC Registry.

- (c) **Monitoring of prices and Article 19 reporting – first trends:** COM presented price developments of gases/blends from 2009 until 2014. Prices were relatively low in 2009 and rose sharply in 2011 to twice the level in previous years. This appears to be due to a shortage of the raw materials. From 2011 prices dropped again back to the 2009 levels. This was due to increased imports in particular from China.

Regarding reporting, industry tested the BDR tool in December/January, MS experts followed a webinar in February, and the BDR opened beginning of March. The official deadline is 31 March but in practice companies can still report until the end of June. COM intends to send the confidential report to MS just before the next Committee meeting on 29 September 2015. EEA plans to release the public report in November 2015.

So far 436 companies have successfully completed their BDR reports (3-4 times more than last year under the old Regulation). There is a high number of nil reports, which may (partly) be explained by the high number of new entrants that had nothing to declare in 2014. As for preliminary results, imports have strongly increased since 2013 and consequently also the placing on the market. Companies obviously prepared for the phase-down starting in 2015 by importing massively. Also some companies reporting in 2014 may not have fulfilled their obligation to report under the old Regulation.

- (d) **Revising CN codes – state of play:** COM mentioned that new proposals were in the pipeline to amend CN codes for HFCs and for HCFCs. The rationale is to add more granularity on HFCs (e.g. being able to distinguish between high and low GWP HFCs/blends and having them separate from other fluorinated substances),

and reducing the granularity on HCFCs (whose EU phase-out makes such detailed information much less relevant). After inter-service consultation, the two proposals will be subject to voting in the Customs Code Committee. The new codes would apply from 1 January 2016. Outreach to US and China, who have shown interest to undertake similar measures, is on-going, as these countries are the main trading partners for these substances. The text is uploaded on CIRCABC.

- (e) **EC guidance documents:** Several documents to assist implementation have been uploaded on DG CLIMA's F-Gas website: calculation tool, guide for operators of equipment, brochure for technicians, guidance on how to register, FAQ for reporting, manual on how to use the BDR by EEA, as well as contact lists of MS. Further documents are currently drafted: Article 7 on obligations to provide evidence on HFC-23 destruction or recovery, which applies from 1 June (MS will be asked to review this document), a document on verification currently being peer reviewed by auditor organisations, and a document on imports of RACHP equipment (Art. 14), with the final versions to be expected in July.
- (f) **Update on studies of standards, training and green public procurement:** COM mentioned that the return by MS to the questionnaires on standards and training has been good in numbers; content is still to be analysed. A workshop at the Atmosphere Conference in March provided a useful brainstorming session with industry on standards. Conversely, the response to GPP questions remained rather scarce, with only few observations received. The consultants will look at alternative sources of information to get more input on this. The first meeting of the Consultative Forum will take place on 10 September and will address standards, training and green public procurement (GPP). MS will be invited.

COM clarified questions regarding translation of guidance documents (PL) and access to reporting data of companies (FI). FR asked at what point in time import took place. COM explained that import was related to the physical movement of the good and its entry into the territory. However, placing on the market depends on the customs declaration. "Inward processing", contrary to "release for free circulation", is not considered placing on the market.

IE noted that they have feedback showing increasing HFC prices. COM remarked that interestingly even in the period before the phase-down, HFC prices had been fluctuating significantly. NL remarked that often equipment importers mistakenly applied for quota and the authorization concept needs to be communicated further; COM agreed. In reply to a question by ES, COM noted that guidance on data verification by auditors will most probably come out in July. COM recalled it had no mandate to make an implementing act. Nevertheless, it had undertaken to provide this guidance which will no legal status. Regardless of whether a guidance is made, the legal obligation for the companies to provide verified data already applies.

4. Issues put to the committee for information and exchange of views

(a) Updates of existing implementing acts on certification and training No 303/2008, 305/2008 and 308/2008 and on labelling No 1949/2007

COM presented the main content of four draft implementing acts which were currently in inter-service consultation in the Commission:

1. A draft Regulation updating and repealing Regulation No 303/2008 will extend the scope certification of personnel for refrigeration units of trucks and trailers. Also additional knowledge on alternatives will be required.
2. A draft Regulation updating and repealing Regulation No 305/2008 will extend the scope to also cover installation, servicing, maintenance, repair and decommissioning. Further, it will cover switchgears in general and will not be limited to medium-voltage switchgear. It did not include any additional requirements on knowledge in Annexes. Skills & knowledge on alternatives is required for recovery in the existing act already.
3. A draft Regulation updating and repealing Regulation No 308/2008 regarding the notification format will reflect the changes in scope in the Regulations mentioned above.
4. A draft Regulation updating and repealing Regulation No 1494/2007 on labelling of equipment will reflect the extension to foams, and include a specification of the exempted gases.

After finalizing the internal consultation process, COM will ask MS for written comments. COM plans to put all four implementing acts on the agenda for vote at the next committee meeting on 29 September.

In response to PL, COM explained that the starting point was that activities, practical skills and knowledge were the same for working on stationary refrigeration equipment and refrigeration units on trucks & trailers. Changes to the practical and theoretical requirements for switchgear is not foreseen. For the switchgear, DK asked whether different levels of qualifications would be included, as recovery appeared more difficult than other activities. COM responded that a simple extension to all activities is envisaged.

IE asked for clarifications on the extent of the changes necessary to existing national legislation. COM confirmed that existing certification bodies and programmes would remain valid. To the question by EE whether COM plans to revise Regulation No 304/2008 (fire protection), COM answered that in the light of the new F-Gas Regulation it did not see a need. It would continue to apply without any changes of its scope. On a question by ES, COM responded that old certificates remain valid with the conditions they were originally issued.

DE raised three points: 1) whether there will be an update of definitions as they were also included in the new F-Gas Regulation, 2) whether the new skills would be part of any evaluation and exams (which would in their view go beyond Regulation (EU) No 517/2014, and 3) raised the issue that the requirements for trucks and trailers in Germany already exist (also SE). COM responded on 1) definitions have been removed as found in the F-gas Regulation, 2) knowledge is covered by Art. 10.3 and should be part of the certification system and the evaluation process, and 3) adaptation of national provisions needs to be looked at in detail on a bilateral basis. Only minimum requirements are set, but MS have the possibility to add other areas and activities.

On labelling, UK asked whether tanks with both reclaimed and virgin gas can be labelled with a description omitting the % of reclaimed gas. COM said that the percentage is needed to enable proper monitoring and verification of the phasedown, as reclaimed gases are exempted.

EL pleaded for having certification bodies and titles more accessible for the public to facilitate the mutual recognition of certificates across all EU MS. COM noted this could not be achieved in the context of the draft implementing regulations. A list produced by AREA on existing information in MS is available on the public CIRCABC site, alongside the notifications made by countries.

(b) Other possible future implementing acts

COM noted that it had the powers to adopt other implementing acts such as

- Standards for leak checks in organic ranking cycles and for switchgear
- Format for record keeping for operators of equipment
- Detailed arrangements related to the declaration of conformity by equipment importers as well as the verification of the underlying documentation

COM intends to adopt an implementation regulation related to the last point not least because Article 14(4) obliges the Commission to do so ("*The Commission shall...*"). On the contrary COM does not envisage other implementing acts now and referred to the Better Regulation Package adopted by COM on 19 May that emphasizes, inter alia, that the EU should only be acting where necessary and in a way that does not go beyond what is needed to resolve the issue.

On record keeping, PL is strictly against the development of an implementing act as PL has already developed its own database with a set format. As regards leak checks, DK and DE requested that if such an act were to be adopted, it should happen as soon as possible to avoid interfering with efforts carried out by national administrations. IE supported by NL and PL pointed to available standards on leak checking and asked whether a guidance document related to leak checking could be developed instead of an implementing act. COM proposed to facilitate the collection of information and exchange of views on this topic between Member States.

(c) Interpretation and enforcement issues of Regulation 517/2014, including

- Scope of domestic equipment

DE explained that HFC containing cooling boxes that may be transported in cars had been stopped by customs due to the HFC ban (GWP > 150) for domestic refrigeration. DE questioned whether such equipment was falling under the ban (10) of Annex III. COM added that it had also been approached regarding such equipment and similar equipment used on boats and in camping caravans. The type of equipment was not designed for use in the house, but rather for places outside the house. In this light it would tend to agree with DE that such equipment should not be considered as domestic. FR and DK agreed to this interpretation. To a question by NL, COM replied that equipment which is not domestic is not necessarily commercial. FR also pointed out that "domestic" and "commercial" are not antonyms. COM added that during negotiations care been taken to only impose bans in those areas where specific alternatives were readily available on the market. Clearly, it was not the intention to achieve full coverage of all applications under Annex III. COM concluded that it would report back to the company on these discussions, stating that it was the general view that this type of equipment designed to be used outside the house is not covered by the ban (10) of Annex III regarding domestic equipment.

- **Switchgear leak detection system (Art. 2 (29) and 5(2))**

Several Member States had inquired which type of switchgear leakage system would be in line with the Regulation. COM presented an overview of different leakage detection systems based on technical input from an external consultant. Basically there were three types:

1) **simple density measuring devices**, which do not alert the operator of leakage as required in the definition Article 2 (29);

2) **density measuring devices** with an online notification to the operator as required in the definition. However, the detection limits is around 5% of the charge size. Only when the limit is reached an alert will be given. It was questionable whether such a system could be considered to detect "any leakage" as required in Article 5(2). These devices are already commonly used in most EU countries;

3) **electronic monitoring systems** measuring different parameters constantly and alerting the operator in case of very small leakages. These systems would clearly be in line with the Regulation. These systems are available on the market but they are slightly more expensive than the other systems. The obligation to have a system applies to new switchgears installed after 1 January 2017.

DE asked if the qualification of a compliant leakage detection system under Article 5(2) would also be decisive for whether a lower frequency for leak checks could be applied under Article 4(3). Article 4(3) refers only to a leakage detection system as is defined in Article 2(29) requiring an alert. It does not make any reference to Article 5(2) entailing "any leakage".

UK referred to RAC systems used as backup, located outside. COM considered that for back up installations filled with F-gases it would also be appropriate to have a leak detection system in place. Replying to IE, COM agreed that there are many different systems and devices, and it is a case-by-case decision if they are adequate, e.g. an ambient air gas detector would not be appropriate in an outside location.

COM summarised the discussion by noting that whereas an electronic monitoring system could be compliant, a simple density measuring would not be. MS could further reflect on whether density measuring devices (with online notification) would be appropriate given the low detection sensitivity.

- **Applicability of the Regulation to the shipping sector**

NL had been informed that there was a lack of uniform interpretation among Member States as to whether ships fall under the Regulation. COM stated that the F-Gas Regulation applies to the shipping sector in general. However some specific provisions in the Regulation have a more narrow scope. This is the case for provisions on leak checking (Article 4), record keeping (Article 5) or certification obligations (Article 10) where the scope is limited to sectors listed in these Articles. On the other hand regarding emission prevention (Article 3), recovery (Article 8(3) and labelling (Article 12) obligations apply to ships. COM suggested it would comment in writing to the list of questions on shipping provided by NL. It would upload this commented version on CIRCABC and invite MS to review it.

- **Homogeneous enforcement of emission prevention (Art. 3)**

FR questioned the meaning of 'without undue delay'. COM stated that this obligation was left intentionally unspecific because the actual proportionate requirements for different applications vary widely in practice. It is the responsibility of MS to determine what level of diligence can be expected from an operator case-by-case. FR sees this article as problematic as it cannot be used as a basis for sanctions and would lead to disparity in the application of the Regulation across Europe. FR would like to see a guidance document in order to get a homogeneous interpretation in all MS. COM replied that it is difficult to be more specific in the legal act, but the nationally determined sanctions norm can be more nuanced.

- **Monitoring of certification and installation requirements related to sale, incl. on-line sale (Art 11(4) and Art 11(5))**

BE highlighted that for online sales it is difficult to find out where an HFC sale is taking place. BE is considering putting in place a registration system of all sales, reflecting GWP. This is considered an opportunity to monitor the market, which could also be advantageous for data reporting to the UNFCCC and would put all players on the same level-playing field. PT is similarly considering an online platform to monitor sales. COM pointed out that care must be taken not to impede the internal market and proposed a trilateral with BE and PT. FR explained that its national regulation already has guidance on this point which will be distributed to other MS, some of whom have already shown interest. As regards Art. 11(4), distributors will have to keep a registry with a copy of certificates of contractors who buy F-Gases, and for Art. 11(5), equipment distributors will have to keep a copy of contract that was established between the buyer and the contractor who will perform the installation.

On record keeping of sales, UK noted that it is only needed for undertakings supplying bulk gases, not for suppliers of pre-charged equipment. This makes enforcement challenging. ES mentioned that a similar system is in place like in FR: the buyer needs to report to seller and the official document is kept by the seller who has to report to authorities on the buyer (documents have to be kept for 5 years). BE is undertaking an information campaign asking the reseller to sign a declaration that only certified installers are used. DE asked for simple approaches by targeting the big hobby/gardening markets as a main share of the sales. They have no solution regarding on-line sales yet.

COM summarized that online sales are indeed difficult to control. Implementing the Regulation is the responsibility and competence of MS. Some have decided to add additional requirements that are not mandated. We will therefore see different levels of enforcement. COM invited Member States to forward short summaries of their domestic approaches and legislation, which would be put on CIRCABC as means of sharing best practices.

- **Monitoring of leakage checks for trucks and trailers (Art. 4)**

FI explained that environmental inspectors can go to a factory and check that they have done leakage checks, but asked how this should be operationalized for mobile trucks and trailers. UK responded that there only exists a small number of key companies servicing the fleets, hence working with them will make it possible to cover most vehicles. Furthermore, UK mentioned that most of these vehicles are owned by supermarkets. This may also facilitate the task.

CY asked for clarification as regards the definition of refrigerated trucks in order to verify whether the vehicle has a weight of over 3,5 tons. COM answered that there are specific truck categories in legislation. Vehicles designed and constructed for the carriage of goods and up to a maximum mass of 3.5 tons are categorized as N1 under the type approval legislation. Trailers with a maximum mass of 3.5 tons are categorized as O1 or O2. The weight and vehicle type is visible in the registration papers.

- **Issues raised by Belgium**

COM responded to the issues raised, in writing, by Belgium.

First, BE questioned if for decommissioning only certified personnel was allowed to handle the equipment even after F-gases had been removed. COM clarified that in their view equipment is not considered F-Gas equipment anymore if the gas has been removed, so after feasible gas removal according to BAT the certification requirements would not apply.

Second, BE asked if a technician needs to be certified even if he does not touch the circuit of gas. COM clarified that if the gas-carrying circuit is not touched, certification is not needed.

Third, BE raised that in Table 6 of the guidance document "Information for technicians and users of refrigeration, air conditioning and heat pump equipment containing F-Gases", contrary to what was written, companies do not need to be certified for trucks & trailers. COM confirmed that this was a mistake and that it will be corrected.

Fourth, BE did not share the view in the internal commented F-gas Regulation that it would be proportionate to only request verification that the personnel is certified in cases where also company certification is required. BE considered that both certificates should be verified. COM did not have an issue with a stricter interpretation and will reflect this discussion in the commented F-gas Regulation.

5. Any other business

ES remarked on the prohibition in Annex III on commercial refrigeration systems using high GWP HFCs from 2020, which they see as a likely problematic compliance issue for their industry. COM replied that the Regulation demands that this issue is examined and that a report will be published by mid-2017.

FR remarked that a French company has gone to the EU Court challenging the interpretation of "hermetically sealed equipment". COM added that the case was declared as inadmissible by the Court without any proceedings.

CY mentioned a case where customs stopped the import as a company did not hold quota and asked what would happen in case imports exceeded the quota allowance. COM responded that an importer should hold sufficient quota at the time of placing on the market. If that was not the case the importer could import under customs procedures other than "release for free circulation". This would not necessitate that goods are physically stored at customs. The company could subsequently obtain additional quota by a quota transfer in the HFC Registry, allowing them to release the gas for free circulation. BE mentioned that a loophole exists, as a company can exceed its quota allowance by importing from another country (customs check the registry only in one country). COM explained that the full quota verification only occurs ex-post. Customs

can only check if a single shipment does not exceed the company's quota (either if the company does not hold a quota or it is insufficient to cover the single shipment).

ANNEX I: ACTION LIST

Who	What	When
COM	To send out implementing acts to MS	ASAP
MS	To provide written comments on implementing acts	By deadline given on documents in CIRCABC
COM	To send out document giving advice on Art. 7 for review by MS	ASAP
MS	Provide comments on document giving advice on Art. 7	By 30 June 2015
MS	Invited to provide available information on leak checking requirements and record keeping at national level for COM to put on CIRCA	ASAP
COM	Inform company on general view on scope of domestic equipment	ASAP
MS	Reflect on requirements for switchgear detection systems	
MS	Invited to provide summaries of how they monitor certification and installation requirements related to sales incl. online sales; to be put on CIRCA by COM	ASAP
COM	to comment on questions related to shipping from NL and upload these for review by MS	ASAP
COM	COM Update the internal commented FAQ version of the F-gas Regulation, incl.	ASAP

	BE questions	
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Participants

MS: AT, BE, BG, CY, CZ, DE, DK, EE, ES, FI, FR, HR, IE, LV, MT, NL, PL, PT, SE, SI, UK.