



Council of the
European Union

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NOTE

From: General Secretariat of the Council

To: Delegations

Subject: Current legislative proposals:

- Proposal for a Regulation of the European Parliament and of the Council on fluorinated greenhouse gases, amending Directive (EU) 2019/1937 and repealing Regulation (EU) No 517/2014
- Proposal for a Regulation of the European Parliament and of the Council on substances that deplete the ozone layer and repealing Regulation (EC) No 1005/2009

= Information from the Presidency on the state of play

Delegations will find in the Annex an information note from the Presidency, on the above subject, to be dealt with under "Any other business" at the Council (Environment) meeting on 20 December 2022.

Proposal for a Regulation of the European Parliament and of the Council on fluorinated greenhouse gases, amending Directive (EU) 2019/1937 and repealing Regulation (EU) No 517/2014

Proposal for a Regulation of the European Parliament and of the Council on substances that deplete the ozone layer and repealing Regulation (EC) No 1005/2009

- Information from the Presidency on the state of play -

I. INTRODUCTION

1. The aim of this report is to provide an overview of the progress made on the proposal for a Regulation of the European Parliament and of the Council on fluorinated greenhouse gases (F-gas proposal) and on the proposal for a Regulation of the European Parliament and of the Council on substances that deplete the ozone layer (ozone proposal). The proposals will replace the current regulations on both groups of substances and their overall aim is to increase the level of protection of the environment, in particular in view of the Paris Agreement objective to limit the global temperature increase to 1.5 degrees. Saved F-gas emissions will also directly count towards the EU's climate targets and supplement Member States' efforts to reach their target under the Effort Sharing Regulation.
2. Both proposals must ensure that the EU can comply with its obligations under the Montreal Protocol on Substances that Deplete the Ozone Layer. This is particularly relevant for the F-gas proposal, which must update the current rules to ensure compliance with the Kigali Amendment to the Montreal Protocol, especially beyond 2030.

3. In relation to the climate objectives, the F-gas proposal contains a more ambitious schedule for phasing down fluorinated greenhouse gases, which is complemented by other necessary provisions, particularly restrictions on the use and placing on the market of certain products and equipment containing these gases. As regards the ozone proposal, the main change is a requirement to handle old insulation foams in buildings properly at the end of their useful life. This measure could save a significant amount of climate-relevant emissions.
4. Both proposals also reflect the urgent need to address increasing illegal trade, to improve monitoring and reporting and to provide greater clarity and coherence in both areas of regulation.

II. WORK IN THE COUNCIL

5. The Commission published the proposals for the revised Regulations on 5 April 2022 and presented them to the Working Party on the Environment in May and to the Council (Environment) in June. The examination of the proposals started under the French Presidency and continued under the Czech Presidency, during which eight meetings of the Working Party on the Environment were dedicated to these two proposals.
6. The work in the Council focused primarily on the F-gas proposal. The reason for prioritising the F-gas proposal at this stage of the negotiations is the greater urgency of this proposal given the need to tackle illegal trade and the fact that these gases are still being used in new equipment, whereas ozone depleting substances have generally been phased out already. Moreover, the quota system in the F-gas Regulation has a triennial cycle, with a new cycle starting on 1 January 2024, and it would be highly preferable if the F-gas proposal could enter into force in 2023 and become applicable on 1 January 2024. There are many identical provisions in the two proposals, in particular regarding definitions, enforcement and penalties. Once negotiations on the F-gas proposal progress and an agreement is reached within the Council, the changes can be reflected in parallel provisions in the ozone proposal.

Regulation on fluorinated greenhouse gases

7. After the first general examination in July, when the Commission's proposal was explained and clarified, the work of the Working Party on the Environment focused on a detailed examination in September and October. A number of comments and positions were gathered by the Czech Presidency during that time.
8. Based on those comments and positions, the Czech Presidency prepared a compromise text of the Regulation¹, which was presented to the Working Party on the Environment on 17 and 18 November. A number of proposed modifications to articles related to restriction and control of use were welcomed by the Member States, in particular in the article on marketing restrictions and in the article on labelling. There was also widespread support for the proposed changes to the provisions on emission prevention and on record keeping. Various technical and linguistic improvements to the text were also supported.
9. Many Member States also expressed support for the idea of extending the subject matter of the Regulation to include natural refrigerants, since they are the main alternative substances and their safe and efficient use needs to be ensured. In the Presidency compromise text this is reflected mainly in the provisions concerning certification and training.
10. The discussion showed that while the proposed timeline for the phase-down of hydrofluorocarbons (HFCs²) is considered too ambitious by several Member States, a larger group of Member States is against lowering the overall level of ambition of the Commission's proposal. Further discussion will be necessary on other key elements of the proposal, such as the timeline for restrictions on the placing on the market of certain products and equipment and the introduction and level of a price for quotas for HFCs.

¹ Presidency compromise text – ST 14465/22

² HFCs – hydrofluorocarbons, group of fluorinated greenhouse gases, use of which the Kigali Amendment of the Montreal Protocol and the F-gas Regulation seek to reduce.

11. Another major outstanding issue which needs to be addressed in detail by the working party is the potential for more stringent regulation of measures to reduce leakage and emissions ('containment') from the mobile sector (e.g. refrigerants and air conditioning used in road or other transport). There seems to be widespread support for such a way forward. However, the specific preferences of the Member States regarding the extent to which the mobile sector should be included remain unclear.

Regulation on substances that deplete the ozone layer

12. While clear priority was given to the F-gas proposal during the Czech Presidency, work on the Regulation on substances that deplete the ozone layer also progressed. A first examination of the proposal focused on those provisions which are not identical to those in the F-gas proposal, and a detailed examination of the entire ozone proposal also took place. The main parallel provisions will be negotiated further in the context of the F-gas proposal and work on the ozone proposal will continue during the next Presidency, following closely behind the F-gas proposal in terms of timing.