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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 - Comments from Member States

Delegations will find in the Annex document DS 1279/13 that has been downgraded PUBLIC.

Encl.: DS 1279/13

COUNCIL OF THE EUROPEAN UNION

Brussels, 16 April 2013

DS 1279/13

Interinstitutional File: 2012/0305 (COD)

LIMITE

MEETING DOCUMENT

from:	General Secretariat
to:	Working Party on the Environment
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 - Comments from Member States

Delegations will find in Annex comments from BE, DE, EE, HU, NL, AT, PL, FI and UK concerning the abovementioned proposal.

BELGIUM

Article 1
Definitions

For the purposes of this Regulation the following definitions shall apply:

1. 'operator' means the natural or legal person exercising actual power over the technical functioning of the equipment or products covered by this Regulation;

10. 'placing on the market' means supplying or making available to another party in the European Union for the first time, for payment or free of charge, or using for its own account in the case of a producer, or importing into the customs territory of the Union under a customs procedure that allows use or operation of the imported goods in the Union;

11. 'hermetically sealed equipment means a system in which all parts that contain fluorinated greenhouse gases have been hermetically sealed during their manufacturing by welding them, brazing them or otherwise making them tight by permanently connecting them and for which the refrigerant circuit does not need to be opened for placing the system into operation;

Comment: This leaves also the question of the transition from the scope of the Reg 842 and the proposed one.

14. 'a non-refillable container' means a container which cannot be refilled without being adapted for that purpose or is placed on the market without provision having been made for its return for refilling;

Comments: Belgium supports at 100% as it broadens the scope to all containers, not only the one used for refrigeration.

22. 'refrigerated truck' means a motor vehicle with a maximum mass of more than 3.5 tonnes that is designed and constructed primarily to carry goods (include a reference to the category N2 and above (N3) of the Directive 2007/46) and that is equipped with a refrigeration unit;

23. 'refrigerated trailer' means a vehicle that is designed and constructed to be towed by a truck or a tractor, primarily to carry goods (include a reference to the category O3 and above (O4) of the Directive 2007/46) and that is equipped with a refrigeration unit;

24. 'undertaking' means any natural or legal person who:

a) produces, uses, recovers, collects, transports, recycles, reclaims or destroys fluorinated greenhouse gases;

27. ‘feedstock’ means any fluorinated gas that undergoes chemical transformation in a process in which it is entirely converted from its original composition and its emissions are insignificant;

Comment: It's what we hope !

28. ‘fire protection equipment’ means the gaseous fire fighting equipment and systems utilised in fire protection applications.

Article 2
Prevention of emissions

3. …

For equipment specified in Article 3(1),where a leak in the equipment has been repaired, the operators shall ensure that the equipment is checked by certified persons within one month after the repair but at least ten/fifteen/… days after the intervention to verify that the repair has been effective.

Comment: The intention here is to avoid that the technician repairs the leak, then gets out to smoke and comes back in to check. imposing a minimum time gap will increase the accuracy of the check.

4. …

Undertakings carrying out the activities mentioned in Article 8(1), , shall be certified in accordance with Article 8(4) and shall take precautionary measures to prevent leakage of fluorinated greenhouse gases.

Comment: . BEL thinks there may be a problem for companies that have their own technicians also working on their own installations. This may be the case for operators of large electrical installation where an internal but separated entity may be "contracted" to maintain the equipment such as switch gear .

(a) delivering or receiving fluorinated greenhouse gases for the tasks listed in points (a), (b) and (c).

Comment: BEL l is of the opinion that it could be interesting to introduce a periodic reporting obligation on the buyers of F Gas (moreover now that there may be no further certification for delivering companies).

Article 4
Leakage detection systems

1. Operators of the equipment referred to in Article 3(1) containing fluorinated greenhouse gases with a global warming potential equivalent to 500 tonnes CO_2 or more, shall ensure that, [by 1 January 2017] the equipment is provided with a leakage detection system which alerts the operator of any leakage.

Comment: A stated by GER, there is a strong need of a better definition and technical specification for a leak detection system with at the minimum the level of alert.

Such leakage detection systems shall be checked at least once every 12 months to ensure their~~its~~ proper functioning.

Comment: Need for more information on how to perform this 12 month check

Article 5
Record keeping

1. …

(b) the quantities of fluorinated greenhouse gases added and the reasons for adding them as well as the quantities used from the automatic topping up device;

(e) the dates and results of the checks carried out under Article 3(1) and (3) as well as the methodology used to perform those tests;

Comment: The result of the check can be no more than a simple 'yes', which doesn't seem satisfactory to conclude if the performed leakage test was carried out as it should be. Therefore BEL proposes not to only include the obligation to record the results of the checks but also describe the leakage detection method

Article 7
Recovery

…

4. ~~Users of products and o~~Operators of equipment and products not listed in paragraph 1 that contain fluorinated greenhouse gases shall arrange for the recovery of the gases, to the extent that it is~~practicable~~ technically feasible and does not entail disproportionate costs, ~~by appropriately qualified persons,~~ to make sure they are recycled, reclaimed or destroyed or for their destruction without prior recovery.

Comment: As stated in our previous remarks, this is very difficult to achieve as the user of a fridge or a heat pump tumble dryer containing F-gases. For domestic equipments, the WEEE directive applies and specific structures are in place to handle end-of -life equipments. Those structure shall have their staff properly certified.

Article 8
Training and certification

1. Member States shall establish ~~training and~~ certification programmes, including evaluation processes, ~~for the following persons~~and shall ensure that training is available for the following persons:

Comment: Making the training available does not mean that it is mandatory to follow it. Could the PDCE confirm that MS should not define training programs if the y have already examination and certification procedures in place.

We are not against a mandatory training, but it must be clear for all MS.

(a) persons who install, service, maintain, repair or decommission of equipment listed in the third subparagraph of Article 3(1);

2. …

(e) sensibilisation and information about principles concerning technologies to replace or to reduce the use of fluorinated greenhouse gases and their safe handling.

Comment: Does it cover only a knowledge of the principles or a practical one ? This may have various impacts on the technicians depending if they are small actors (domestic installations) or working on very large equipment. We should have something that is more flexible to allow technicans to choose their "speciality".

Our point of view is that it would be inadequate that this Regulation foreseen a certification program imposing something similar to a complete certification for the use of non fluorinated gases (CO2, NH3, hydrocarbons ...). It is out of the scope of this Regulation. Belgium also thought it might be interesting to include a paragraph / article requiring Member States to ensure that offers training in the use of non-fluorinated refrigerants is available from 2015 for all technicians / undertakings wishing to train. It might also be expected that Member States should take measures to encourage technicians / undertakings to train in the use of non-fluorinated refrigerants.

4. Member States shall establish certification programmes for undertakings carrying out the activities mentioned in paragraph 1, points (a) to (d), ~~for other parties~~.

Comment: Why is this obligation only foreseen for undertakings working for other parties? The certification obligation should concern each person and undertaking handling F-gases, whether or not they're working for another party of for themselves.

Undertakings should provide the necessary equipment for the certified technicians. This can be achieved in view of the certification obligation for undertakings. We don't see why an undertaking that doesn't work on installations of third parties should not provide the necessary equipment, should not make an overview of refrigerant consulmption on different installations (sometimes on different locations).

6. Member States shall notify the Commission ~~of their training and~~ certification programmes and training by 1 January 201~~7~~5. They shall recognise certificates issued in another

Member State. They shall not restrict the freedom to provide services or the freedom of establishment because a certificate was issued in another Member State.

Comment: notification of certification programmes and training. Can this be interpreted as certification programmes or training? In Belgium & some other member states, certification based on examination is obligatory but training is not.

7. The Commission shall be empowered to adopt delegated acts in accordance with Article 20 specifying minimum requirements ~~for the training and~~ certification programmes and training provided for in paragraph 1 and specifying conditions for the mutual recognition of certificates.

Comment: What may remain the role of MS in the training (definition of the programs).

CHAPTER III
PLACING ON THE MARKET AND CONTROL OF USE

Article 9
Restrictions on the placing on the market

Comment: A long-term goal for a F-gas phase-out is missing. What we would like to see is the principle of more global bans of use after 2020, may they have GWP > or < to 2500 CO2eq. In view of long term goals, a clear signal with regard to phase-out of F-gases (certainly for cooling applications) should be given to the actors involved. At least for some subsectors, e.g. commercial refrigeration, large industrial refrigeration systems a ban on the placing on the market of systems with HFC's in new installations should be formulated (e.g. 2025) for equipments with gas under 2500 CO2eq.

1. The placing on the market of specific products and equipment listed in Annex III, containing fluorinated greenhouse gases or whose functioning relies upon fluorinated greenhouse gases, shall be prohibited from the date specified in that Annex, where applicable differentiating according to the type or global warming potential of the fluorinated greenhouse gas contained.

…

Comment: We welcome the introduction of bans on placing on the refrigeration equipment with HFC with GWP of 2500 or more in the Annex IV. We would like to see an earlier phase-out than 2020, especially for commercial refrigeration where leakage rates and risks are the highest and R404 use is the highest. It must be clear for potential users of high-GWP refrigerants that in the years before the use ban (2020) they wouldn't invest in such refrigeration systems or technologies so that the cost of switching to alternatives in 2020 can be avoided and make the right decision as earlier as possible.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 20 amending the list set out in Annex III to include other products and equipment that contain fluorinated greenhouse gases with a global warming potential of 150 or more, or that rely on them to work, if it has been established that alternatives to the use of fluorinated greenhouse gases or to the use of specific types of fluorinated greenhouse gases are available, and their use would result in lower overall greenhouse gas emissions and to exclude, where appropriate for a specified period of time, certain categories of products or equipment for which alternative substances which fall below the specified global warming potential limit are not available for technical, economic or safety reasons.

Comment: Bel would prefer not to set out a limit in GWP in the body of the text. Investigations by inspectorates may discover new unnecessary F Gas uses for which the GWP does not constitute a threshold. For instance, there are uses in sink unblocker, dog's dirt freezer, and other very creative uses where it can be assessed as totally non necessary beyond the GWP.

A way of dealing with the problem would be to prohibit all aerosols and add a list of derogations where it can be demonstrated that the use of an F gas is necessary or that there is no alternative at the moment. The Committee shall review the list often.

4. For the purposes of carrying out the activities referred to in Article 8(1) (a) to (d) fluorinated greenhouse gases shall only be sold to and purchased by undertakings and persons that hold the relevant certificates in accordance with Article 8. The undertakers selling or carrying F gas shall report each year to the competent authorities of the MS a list showing the undertakings and the quantities of F gases have boutght or received

Comment: We very much agree with the addition that's been made in article 9(4). We have this demand for clarification: does this mean that it is the responsibility of the seller to verify in one way or another that the buyer has the appropriate certification and that the seller is not allowed to deliver fluorinated greenhouse gases if he is not able to conclude if the seller has the right certificate. The answer to this is important in view of controlling activities.

Furthermore BEL suggests to add the obligation for sellers/distributors of F-gases to report to the competent authorities the identification of the buyers (and quantities). This would be a powerful tool to locate buyers of F-gases who doesn't have the proper certification. This would lead to a higher implementation of the certification obligation as non-certified undertakings and persons would no longer be able to buy F-gases to perform refilling etc…

Article 11
Control of use

3. The use of fluorinated greenhouse gases, or of mixtures that contain fluorinated greenhouse gases, with a global warming potential of 2500 or more, to service or maintain refrigeration equipment with a charge size equivalent to ~~5~~ 40 tonnes of CO_2 or more, shall be prohibited from 1 January 2020. This provision shall not apply to equipment intended for applications < -50°C.

Comment: Belgium understands that the intention of the Cion is to avoid imposing a retrofit of small application for which the cost may be too high. Nevertheless the change proposed here allows equipments containing 8 times more GWP to fall out of the scope of the measure. We would like to understand this increase in the tolerance threshold. This represents equipments containing up to 12 kg of R404a.

Perhaps a compromise could be to prohibit the use of gas with a GWP> 2500 from 2020 for equipment from 40 tons of CO2, but to reduce this threshold to 5 tons from 2025.

Until 1 January 2025, this provision shall not apply to reclaimed fluorinated greenhouse gases with a global warming potential of 2500 or more used for the maintenance or servicing of existing refrigeration equipment, provided that they have been labelled in accordance with Article 10 (5)

Until 1 January 2025 this provision shall not apply to recycled fluorinated greenhouse gases with a global warming potential of 2500 or more used for the maintenance or servicing of existing refrigeration equipment provided they have been recovered from such equipment. Such recycled gases may only be used by the undertaking which carried out their recovery as part of maintenance or servicing or the undertaking for which the recovery was carried out as part of maintenance or servicing.

…

Article 12
Pre-charging of equipment

1. From [dd/mm/yyyy] [*insert date 3 years after entry into force of this regulation*], refrigeration, air-conditioning and heat pump equipment shall not be charged with hydrofluorocarbons at the moment it is placed on the market or before it is made available to the end-user for its first installation.

…

Comment: At the production location, equipment is charged before it is placed on the market & with the goal to test the functioning of the system. This should in the future still be allowed.

2. Paragraph 1 shall not apply to hermetically sealed equipment or to equipment that contains a quantity of hydrofluorocarbons corresponding to less than 2 % of the equipment's foreseen maximum capacity.

Comment: A quantity based percentage is difficult to measure. Moreover, 2% seems – according to industry representatives – too low to ensure that a system would not be contaminated with air/moisture etc…during transport/installation which would lead to vacuuming of the complete equipment at the site of the final user. This would lead to extra costs. We expect an alternative proposition from industry representatives

Article 13
Reduction of the placing on the market of hydrofluorocarbons

1. The Commission shall ensure that the quantity of hydrofluorocarbons that producers and importers are entitled to place on the market in the Union each year does not exceed the maximum quantity for the year in question calculated in accordance with Annex V. Each producer and importer shall ensure that the quantity of hydrofluorocarbons calculated in accordance with Annex V that it places on the market does not exceed the quota allocated to it pursuant to Article 14(5) or transferred to it pursuant to Article 16.

Comment: Belgium would like to ask the Cion if the coverage should not be extended to PFCs and SF6 as well through the mention of fluorinated greenhouse gas instead of hydrochlorofluorocarbons only.

It shall not apply to producers or importers of less than 1 000 tonnes of CO_2 equivalent of hydrofluorocarbons per year.

Comment: We think that this threshold is too high and could create a serious loophole whereby lots of small importers would enter the market. Therefore we demand a much lower threshold to discourage this possibility

Article 16
Transfer of quotas

Any producer or importer for whom a reference value has been determined pursuant to Article 14(1) or (3) and who has been allocated a quota in accordance with Article 14(5), may transfer that quota for all or any quantities to another undertaking in the Union that is registered in the registry referred to in Article 15(1). Any such transfer shall be notified at least two weeks in advance to the Commission.

Article 17
Reporting on production, import, export and destruction

2. By 31 March 2014 and every year after that, each undertaking that destroyed more than 1 000 tonnes of CO_2 equivalent of fluorinated greenhouse gases and gases listed in Annex II during the preceding calendar year shall report to the Commission the data specified in Annex VII on each of those substances for that calendar year.

Article 18
Collection of emissions data BEL would prefer to keep it

Comment: Belgium s not in favor of removing this article.

1. Member States shall collect data on emissions of fluorinated greenhouse gases as from 3 years after the entry into force based on a common format determined by the Commission as mentionned in article 18(3).

For that purpose they shall establish one of the following systems, as appropriate:

(a) a system whereby a database is kept at national level for the collection of the data recorded in accordance with Article 5(1);

(b) a system whereby surveys on emissions from a representative sample of operators covered by the provisions of Article 5(1) are carried out, and results are extrapolated from those surveys.

Comment: Cion should better define what is covered by a "representative sample"

Belgium cannot accept that two systems of reporting may be used and consequently that the Cion may opt for one at a later stage. The stakeholders also need clarity. Finally the calculation of the emissions shall follow the same rules in all MS.

2. The data collected in accordance with paragraph 1 shall be made available to the Commission on request. The Commission may disseminate those data to the other Member States.

3. No later than one year after the entry into force of this Regulation shall the Commission adopt a delegated act in accordance with Article 20 defining the common format referred in the first subparagraph of paragraph 1 of this Article. The Commission shall be empowered to adopt other delegated acts in accordance with Article 20 establishing requirements for the data collection systems referred to in the second subparagraph of paragraph 1 of this Article and laying down as from one year after the entry into force whether, for specific sectors, a system shall be established in accordance with point (a) or point (b) of the second subparagraph of paragraph 1 of this Article.

Comment: The idea here is to ensure that all MS are doing the same and are not going in a direction that will not be followed after.

ANNEX III

Placing on the market prohibitions referred to in Article 9(1)

9. Aerosol generators marketed and intended for sale to the general public, as listed in point 40 of Annex XVII to Regulation (EC) No 1907/2006[1], and signal horns that contain HFCs with GWP of 150 or more or where the use of fluorinated gas is not essential and can be replaced by another gas that does not have an impact on the climate (the intention here is to avoid uses where it is not necessary to use f gas such sink unblocker, dog's dirts, …)	4 July 2009
13. New stationary refrigeration equipment that contains, or that relies upon for its functioning, HFCs with GWP of 2500 or more, except equipment intended for applications < -50°C.	1 January 2017

1 Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), OJ L 396, 30.12.2006, p. 1.

ESTONIA

Article 11 (Control of use)

Estonia generally supports the Commission strategy to avoid the use of F-gases with higher GWP. However, Article 11 (3) still causes serious problems for us because Estonia has a large number of the existing commercial and industrial refrigeration systems with e.g R-404A. These systems with refrigerant R-404A are new and make up ca 90% of the stock of the Estonian commercial refrigeration and also a considerable part of industrial refrigeration. In medium size food stores the amount of 404A is often over 40 CO_2 equivalent tonnes or over 10 kg (usually starting from 60 kg and in supermarkets the refrigeration system may contain 1000 kg of refrigerant).

According to the proposal the use ban will start very soon, in 7 years, and in our opinion the transition for alternatives, as envisaged in the proposal, is not smooth enough and this measure is also extremely expensive. According to our estimations the cost of such conversion in Estonia would roughly be up to 50 million EUR.

It is either not clear for us which alternative with similar or equivalent properties could be seen as drop-in replacement for R-404A. We checked the Commission analysis Commission analysis "Preparatory study for review of Regulation EC no 842/2006 on certain fluorinated greenhouses gases. Annexes to the Final Report", 2011 but could not identify any suitable drop-in solutions.

It`s not also very helpful to exclude equipment indended for applications (< -50^{0}C) *(in paragraph 3),* because in commercial refrigeration the temperatures goes down to -42^{0}C (in fast freezing) and -35^{0}C in freezers. The usual temperatures are - 10 up to -15. The threshold below 50^{0}C applies only for certain applications which require very low temperatures, known as cryogenics.

- *It would be extremely useful if the Commission or Presidency could provide a clear list of drop-in solutions in the commercial and industrial refrigeration.*
- *The phrase "below -50^{0}C" in paragraph 3 needs definitely some clarification to distinguish between product temperature and refrigeration temperature*
- *It's not clear whether the new sections 2 and 3 in paragraph 3 only apply to only equipment < - 50 °C.*
- *Paragraph 3 is not very clear in the set-up and we propose to rearrange the text of provision 3 like in Art 13 paragraph 2.*
- *The deadlines in Annex III p 13 and 14 and Art 11 (3) (control of use – service ban) should not be the same, it would be more logical when placing on the market bans come into force before service bans.*

Article 13 (Reduction of the placing on the market of hydrofluorocarbons)

Estonia generally welcomes the phase down mechanism and quota system established in chapter IV, as this principle has worked very well in case of ozone depleting substances, however, we would like to emphasize that suitable alternatives shall be available and that there will definitely be a need for exemptions in special cases. Unfortunately, neither the Commission analysis "Preparatory study for review of Regulation EC no 842/2006 on certain fluorinated greenhouses gases. Annexes to the Final Report", 2011 nor a study by the *Umweltbundesamt* "HFC propellants in Canned PU foam (OCF)", 2009 provide suitable alternatives for one-component foams.

- *It would be extremely useful if the Commission or Presidency could provide a clear list of one-component foams (with HFC-152a) alternatives, alternatives to HFC-152a.*

Estonia is amongst the four biggest EU countries manufacturing polyurethane one-component foam (OCF) and the biggest per capita producer of one-component foam in the world and it would be absolutely necessary for our producers to have access to sufficient quantities of HFC-152A in the future as most of the (HFCs) used in OCF production in Estonia are imported from third countries for filling million of OCF cans. Chapter IV of the proposal foresees reduction of the placing on the market of HFC-s and establishes in Annex V the phase out schedule. This will soon lead to the situation for these companies when they have no access for HFC-152 that is necessary to keep up production at the same level.
Due to the restrictions of the EU F-gas Regulation (EC) No 842/2006 the use of HFCs in OCF both Estonian producers, in 2008, have stopped producing OCF with HFC-134a as propellant, using HFC-152a instead. This has already led to major decrease of the emissions (both manufacturing and stock emissions) in the OCF sector.

There are two big companies producing one-component foam in Estonia OÜ Krimelte http://www.krimelte.com/en and Henkel Makroflex AS http://www.makroflex.ee. These companies export to ca 40 markets, including the EU but most of their production - 97% of products is however exported to third-countries, e.g Russia, Ukraine, Kazakhstan, Japan, Australia, etc. Krimelte is among the biggest export companies in Estonia and has won may exporter of the year prices in Estonia and Henkel Makroflex has over 30 year experience in producing PU foams.

According to the estimation of these two producers the HFC-152a is a crucial component in one-component foams. HFC-152a is not only propellant but also important solvent that takes part in polyurethan reaction and provides the products with unique quality properties. These properties enable to use one-component foam at low temperatures, which is especially important in regions where the temperature falls and stays for a long time under critical level.

- *We support the reworded paragraph 2, however, we propose to extend the same principle to products and equipment containing HFC-s.*

The proposed new wording of point (c) is as follows:

"(c) hydrofluorocarbons ***and products (and equipment) containing hydrofluorocarbons*** *supplied for direct export outside the Union* ***until it has been established that alternatives to the use of hydrofluorocarbons are available and their use would result in lower overall greenhouse gas emissions****;".*

There is, however, also a considerable domestic market for OCF, which is supplied by both domestic manufacturers and – to lesser degree – foreign companies.

In order to improve insulation of buildings, products with HFC-152a are difficult to replace. One-component foam is also very important to improve energy efficiency and compensates via increased energy efficiency the global warming caused by using the products.
The proposal foresees an exemption mechanism under Article 13(4), point (b), which we strongly support. It is very important for Estonia that the wording of possible exemptions would allow sufficient flexibility. Currently, only health and safety considerations are listed, but there are other aspects to take into consideration as well, such as energy efficiency.

Article 13 paragraph 4 of the proposal foresees the possibility that the Commission shall be empowered to adopt delegated acts, exempted the placing on the market for specific uses from the quota requirement laid down in paragraph 1 where the used of HFCs is necessary for health and safety reasons and sufficient supply would otherwise not be ensured.

At the same time Article 9 paragraph 3 allows exemptions if alternatives are not available for technical, economic or safety reasons. This is not consistent.

- *For example in order to ensure implementation of Directive 2012/27/EU on energy efficiency our proposal is to change the wording art 9 (4) (b) in the following manner, adding technical and economic criteria as well:*

  Proposal for new wording of Art 13 (4) (b):

  "(b) exempting the placing on the market for specific uses from the quota requirement laid down in paragraph 1 where the use of hydrofluorocarbons is necessary for health, safety, ***technical or economic*** *reasons,* ***until it has been established that alternatives to the use of hydrofluorocarbons are available and their use would result in lower overall greenhouse gas emissions.***"*

One-component foams with HFC-152a increase energy efficiency of buildings and in this way these products compensate the negative impact from its GWP in the climatic conditions in Northern Europe, incl in Estonia as well as other markets with cold climate.

When the phase down system for HCF-s will come into force, these companies will face difficulties in acquiring the HCF-s they need for production and may be forced to move the production outside the European Union (which will not reduce HFC emissions but will however, mean loss in revenues and jobs for Europe. So there is a high danger for carbon leakage.

- ***Estonia would also like a clarification how the exemption process described in Article 13.4.b would be implemented I practice. Do the involved companies have to turn directly to the Commission and the Commission will look at the application case by case and provide individual decisions or will other member states also be involved in granting exceptions just like in case of ozone depleting substances.***

Article 1 (Definitions)

- *There should be some logical structure for the definitions, for example in thematic blocks to facilitate easy following of the regulation.*

- *Definition "Placing on the market" what exactly does the phrase "using for its own account in the case of a producer"?*

- *About the definition "Destruction" there is no reference to any destruction methods. What are the allowed destruction methods? The ODS Regulation 1005/2009 includes annex VII, which lists allowed methods by types of ODS. Has the Commission considered establishing similar methods for F-gases? Do the same methods apply to eg for SF_6 and HFC-s?*

- *The definitions "mobile" and "stationary" should also include the word "equipment". The word "normally" does not add to the understanding.*

Article 3 (Checking for leakage)

- *Paragraph 1 - Does the word "labelled" extend for both to the "hermetically sealed equipment" and to the "equipment sealed upon installations"?*

Article 4 (Leakage detection system)

The existing regulation includes a provision that refrigeration and fire fighting systems containing 300 kg F-gases shall be equipped with electronic leak detection systems. For ref systems there is no definite deadline, however the regulation came into force on 17 may 2006 consequently such systems should have been provided with automatic leak control system from this date. For fire fighting systems EC No 842/2006 Art 3 (3) has set a deadline 4 July 2010.

- *Why does the new text provide deadline 1 January 2017 when the obligation is in force?*

Article 5 (Record keeping)

- *Paragraph 1- What does the phrase "automatic topping up" mean?*

- *Paragraph 1 (f) Reference to Article 3 (2) is missing.*

Article 7 (Recovery)

- *Paragraph 4- Is this correct to use the phrase "operators of products"?*

Article 8 (Training and certification)

- *Paragraph 1.c- Reference to Article 7 should be limited to Article 7.1, not to the whole Article 7.*

Article 9 (Restrictions on the placing on the market)

- *Paragraph 1. (Annex III – placing on the market prohibitions):*

  Points 13 and 14. Why has the word "new" been used? Other points do not have this kind of distinction (attribute).;

  The deadlines in Annex III p 13 and 14 and Art 11 (3) (control of use – service ban) should not be the same, it would be more logical when placing on the market bans come into force before service bans.

- *Paragraph 2 (ecodesign exemption) It's still not clear what paragraph 2 means and how to implement this exemption. The text of the paragraph has not been made more understandable.*

- *Paragraph 4: The idea is in theory good but the implementation may cause problems since F-gases have other uses in addition to those listed in 8 (1)1. (production, feedstock, medical equipment, lab uses). Should the sellers of F-gases keep a register of buyers and the purpose of purchases?*

Article 10 (Labelling and product information)

Estonia generally supports this Article on labelling and widening the scope but we propose that a sufficient transition period (e.g 2 years after entry into force) should be established and apply to all new products subject to labelling, - including foams, so that companies can prepare themselves in due time. This provision is not currently included in the text of the Article.

- *Paragraph 1. It is not clear whether the labelling requirements apply to both- stationary and also to mobile equipment (refrigeration, air conditioning and fire protection equipment).We propose to specify the wording of paragraph 1 (list of equipment and products subject to labelling).*

- ***Why do the paragraphs 6 and 7 have reference to paragraphs 1 and 3 and not paragraph 2?***

Article 14 (Allocation of quotas for placing hydrocarbons on the market)

- ***Paragraph 1. Estonia would like to know why the Commission and Presidency has chosen the basis for quota the period 2008-2011.We propose to include year 2012 as well.***

Article 17 (Reporting on production, import, export and destruction)

Paragraph 2. As both reporting requirements will be extended as well as the reporting baseline will be changed we consider that the deadline 31 March 2014 is to soon for those companies who do not have to report under present regulation as these companies should already now collect information for the report that has to be submitted by next year (31 March 2014).

We find it necessary for differentiate between the requirements between old reporters and newcomers, allowing a certain grace period (e.g 1 year) for those companies, who do not have to report under current regulation.

Article 18 (Collection of emissions data)

- *Estonia supports keeping elements of Article 18 (Collection of emissions data).*

Estonia has already elaborated such a combined electronic logbook national level emissions data collection system, which will become operational in the coming months. This system is connected with the certification system and will be used as a risk assessment tool for supervision purposes and will help in preparation of F-gas inventory.

ARTICLE 22 (PENALTIES)

We appreciate the deadline has been postponed to 31.12.2015.

When choosing the deadline for penalty report it should be necessary to consider when the whole package of legal acts will be elaborated and approved.

The deadline should be chosen carefully, so that it is realistic. It takes a long time to elaborate a law and have it approved in the national parliament.

Article 23 (Repeal)

- *Commission Regulations (EC) No 1493/2007 (reporting on production, import; export,) and No 1494/2007 (labelling) are missing from the list.*

SPAIN

Introductory remarks on special conditions of application

With regard to the general application of the regulation, there is an important issue that must be taken into account. As evidenced in the Impact Assessment, there are differences in the impact of the implementation of the Regulation throughout the territory of the European Union, both from the point of view that for the Mediterranean climatic conditions the number of equipment and installations affected would be much higher, and from the fact that the some alternatives proposed are not really optimal in southern countries.

This may lead as well to a different distribution of the quotas throughout the EU, and that a large proportion of them would remain at southern countries. With this situation, to achieve the same results would require further investment.

Therefore, we believe that the proposal should include measures that take into account the specific climatic conditions of the southern countries and the higher cost of implementation and of achieving similar climate change objectives.

Article 1.

Definitions 15, 16, 17 y 18. In definitions 15, 16, 17 and 18, related to wastes, we agree with the MS that declared that there should be a mention to the waste directive. We could study the possibility of using the same definitions that are used in waste directive for a better improvement of the recovery provisions and avoid problems, taking into account that in the end, these provisions are applied by wastes administrations.

Article 3.2. Checking for leakage

We think the threshold shouldn't be change, because it will generate practical problems as we have manifested earlier, although we understand the general objective of using tons of CO2 equivalent as the general unit.

We think the lower threshold shouldn't be change. Otherwise, already existing equipment which uses high GWP gases will now have to check for leakage if it contains a bit more than 1 kg of gas, which would include many individual domestic installations.

So we suggest the following wording for the minimum threshold:

"*The checks pursuant to paragraph 1 shall be carried out with the following frequency:*

(a) equipment that contains more than 3 kg of fluorinated greenhouse gases and a global warming potential equivalent to 5 tonnes of CO2 or more but less than 50 tonnes of CO2, shall be checked for leakage at least once every 12 months;"

Article 6. Emissions from production

The requirement established in this article concerning the destruction of HFC-23 as a by-product should not be applicable at the very early general date of application of the Regulation. Facilities affected are already working and the necessary adaptations need some time to be developed.

For that the reason we request the introduction of a transitory period for the application of this provision.

Article 8. Training an certification

We should staged clearly that provisions established in this article only apply to personnel who handle fluorinated gases or parts of the equipments that contain these gases, because in some cases there is personal who install other parts of the equipments that have nothing to do with these gases and shouldn´t need to be certified, so we suggest the following wording:

"*Member states shall establish certification programmes, including evaluation processes, and shall ensure that training is available for the following persons, when handling fluorinated gases or the parts of the equipments that contain them"*.

Article 8.5

We support the text introduced by PRES in article 8.5. and in point 8.5.bis we would like to know what kind of evaluation process is expected. As UK, we would prefer that the provisions related to alternatives were more orientated to awareness and would not require knowing them in detail.

Article 2.5. (9)

During previous meetings many member states commented on the problems arising from the "Do it yourself" equipments. That is why we understand the current wording in this article is quite soft in this aspect, and, at least in the case of refrigeration, it must be targeted more clearly who shall ascertain that the installation has been made by a certified undertaking. **We think the obligation must fall in the undertaking who sells the equipment instead of in the end user**.

Our current national law has a similar wording than the one in the proposal, and it has generated many problems because if the obligation falls in the end user the provision is impossible to control.

We propose therefore the following wording:

"5. Any person who assigns the task of installing, servicing, maintaining, repairing or decommissioning electrical switchgear that contains SF6 or equipment referred to in Article 3(1) to another party shall ascertain that that other party holds the necessary certificates pursuant to Article 8 for the required tasks.

Undertakings who supply equipments referred to in article 3.1 (a) to (c) – requiring installation- to an end user, shall only supply them including the installation service by a certified undertaking."

With this wording, in addition to clarify the responsibility, we deal with the unfair competition that is being generated since the installation companies that comply with the certification requirements cannot compete in terms of cost with the "do it yourself". This provision gives a legal coverage to companies that are making efforts to comply with the requirements of the regulation.

We do not have any problem if, as COM proposed, this question was included in article 9 instead of in article 2.5.

Article 14 (Annexes VI)

We have doubts about criterion that has been adopted to determine a percentage for new entrants of only 5%, taking into account that the HFC market has been developed in recent years and therefore is likely to have a greater number of companies that would like to enter into this activity.

Article 15

Taking into account that it will be not easy to monitor the compliance with the quota system because:

- Control can only be performed at the border since the prohibition is to the placing on the market so for the supplying or making available for the first time, but there are no limitations for subsequent marketing.
- Substances do not have specific CN codes, as do have most of the substances that deplete the ozone layer, so that customs control can not be performed in a so thorough manner.
- Beyond the report companies have to submit under Article 17, MS do not have any other information about the companies that introduce HFCs according to any of the exceptions (less than 1000 tons of CO2 eq, feedstocks, imports for re-export), so if at any time it is detected any malfunction in the system (and for example more HFCs is found than would be expected under the quota system), it will not be possible to follow the track of this gas as any company could have introduced this gas lawfully.

For these reasons we propose that all companies who will perform their activities according to one of the exceptions, are obliged to register as described in this article, reporting on the use for which they are going to place HFCs into the market, so if at any time it is necessary to monitor the introduction of the gas in the market, it would be restricted to those companies. According to that information, it could also be possible to better make an inspection plan design.

Article 17.3.

It would be more clear that the reporting obligation fall on the company that produce, import and export, as it is established in article 17.1, instead of in the companies that place the substances in the market, because with the current wording information about exports is missed.

Annexes I and II.

We think that it could be useful to add the CAS numbers associated to each of the substances listed in Annex I and II, in line with REACH regulation. In that sense we include the list below.

Taking into account that the control will have to be done at customs, the CN codes should be identified some way, perhaps, including them next to the substances in annex I and II, or in line with article 21 of the ozone regulation.

Annex III

3. Fire protection systems and fire extinguishers that contain HFC 23.

In relation with the issue arisen in the last meeting related to the ban of HFC 23 in fire extinguishers, we have been gathering information related to the uses where we have been told that there couldn't be adequate alternatives. At the end of this document there is information about the critical uses identified. We continue in our process of getting extra information although we send you our first impressions to let you and the rest of the MS know, so you can make the necessary consultations.

We agree with the general prohibition although we would like to make sure there will be suitable alternatives for all the uses in such a critical sector.

1. COMPLEMENTARY INFORMATION TO ANNEX I AND II

ANNEX I

Fluorinated greenhouse gases referred to in Article 1 point (1)

Substance				Global warming potential
Industrial designation	Chemical name (Common name)	Chemical formula	CAS No	
Section 1: ***Hydrofluorocarbons (HFCs)***				
HFC-23	trifluoromethane (fluoroform)	CHF_3	75-46-7	14800
HFC-32	difluoromethane	CH_2F_2	75-10-5	675
HFC-41	fluoromethane (methyl fluoride)	CH_3F	593-53-3	92
HFC-125	pentafluoroethane	CHF_2CF_3	354-33-6	3500
HFC-134	1,1,2,2-tetrafluoroethane	CHF_2CHF_2	359-35-3	1100
HFC-134a	1,1,1,2-tetrafluoroethane	CH_2FCF_3	811-97-2	1430
HFC-143	1,1,2-trifluoroethane	CH_2FCHF_2	430-66-0	353
HFC-143a	1,1,1-trifluoroethane	CH_3CF_3	420-46-2	4470
HFC-152	1,2-difluoroethane	CH_2FCH_2F		53
HFC-152a	1,2-difluoroethane	CH_3CHF_2	75-37-6	124
HFC-161	fluoroethane (ethyl fluoride)	CH_3CH_2F	353-36-6	12
HFC-227ea	1,1,1,2,3,3,3-heptafluoropropane	CF_3CHFCF_3	431-89-0	3220

HFC-236cb	1,1,1,2,2,3-hexafluoropropane	$CH_2FCF_2CF_3$	677-56-5	1340
HFC-236ea	1,1,1,2,3,3-hexafluoropropane	CHF_2CHFCF_3	431-63-0	1370
HFC-236fa	1,1,1,3,3,3-hexafluoropropane	$CF_3CH_2CF_3$	690-39-1	9810
HFC-245ca	1,1,2,2,3-pentafluoropropane	$CH_2FCF_2CHF_2$	679-86-7	693
HFC-245fa	1,1,1,3,3-pentafluoropropane	$CHF_2CH_2CF_3$	460-73-1	1030
HFC-365mfc	1,1,1,3,3-pentafluorobutane	$CF_3CH_2CF_2CH_3$	406-58-6	794
HFC-43-10mee	1,1,1,2,2,3,4,5,5,5-decafluoropentane	$CF_3CHFCHFCF_2CF_3$	138495-42-8	1640
Section 2: ***Perfluorocarbons (PFCs)***				
PFC-14	perfluoromethane (carbon tetrafluoride)	CF_4	75-73-0	7390
PFC-116	hexafluoroethane (perfluoroethane)	C_2F_6	76-16-4	12200
PFC-218	octafluoropropane (perfluoropropane)	C_3F_8	76-19-7	8830
PFC-3-1-10 (R-31-10)	decafluorobutane (perfluorobutane)	C_4F_{10}	355-25-9	8860
PFC-4-1-12 (R-41-12)	dodecafluoropentane (perfluoropentane)	C_5F_{12}	678-26-2	9160
PFC-5-1-14 (R-51-14)	tetradecafluorohexane (perfluorohexane)	C_6F_{14}	355-42-0	9300
PFC-c-318	Octafluorocyclobutane (perfluorocyclobutane)	$c\text{-}C_4F_8$	115-25-3	10300
Section 3: ***Other perfluorinated compounds***				
	sulphur hexafluoride	SF_6	2551-62-4	22800

ANNEX II

Other fluorinated gases subject to reporting in accordance with Article 17

Substance			Global warming potential
Common name / industrial designation	Chemical formula	CAS No	
Section 1: ***Unsaturated hydrofluorocarbons***			
HFC-1234yf	$CF_3CF=CH_2$	754-12-1	4 [Fn 2]
HFC-1234ze	trans — $CHF=CHCF_3$	1645-83-6	7 [Fn 48]
Section 2: ***Fluorinated ethers***			
HFE-125	CHF_2OCF_3	3822-68-2	14900
HFE-134	CHF_2OCHF_2		6320
HFE-143a	CH_3OCF_3	421-14-7	756
HCFE-235da2	$CHF_2OCHClCF_3$	26675-46-7	350
HFE-245cb2	$CH_3OCF_2CF_3$	22410-44-2	708
HFE-245fa2	$CHF_2OCH_2CF_3$	1885-48-9	659
HFE-254cb2	$CH_3OCF_2CHF_2$	425-88-7	359
HFE-347mcc3	$CH_3OCF_2CF_2CF_3$	28523-86-6	575
HFE-347pcf2	$CHF_2CF_2OCH_2CF_3$	406-78-0	580
HFE-356pcc3	$CH_3OCF_2CF_2CHF_2$	160620-20-2	110
HFE-449sl (HFE-7100)	$C_4F_9OCH_3$		297
HFE-569sf2 (HFE-7200)	$C_4F_9OC_2H_5$		59
HFE-43-10pccc124 (H-Galden 1040x)	$CHF_2OCF_2OC_2F_4OCHF_2$	188690-77-9	1870
HFE-236ca12 (HG-10)	$CHF_2OCF_2OCHF_2$	78522-47-1	2800

HFE-338pcc13 (HG-01)	$CHF_2OCF_2CF_2OCHF_2$	188690-78-0	1500
	$(CF_3)_2CFOCH_3$	22052-84-2	343
	$CF_3CF_2CH_2OH$	422-05-9	42
	$(CF_3)_2CHOH$	920-66-1	195
HFE-227ea	$CF_3CHFOCF_3$	2356-62-9	1540
HFE-236ea2	$CHF_2OCHFCF_3$	57041-67-5	989
HFE-236fa	$CF_3CH_2OCF_3$	20193-67-3	487
HFE-245fa1	$CHF_2CH_2OCF_3$	84011-15-4	286
HFE 263fb2	$CF_3CH_2OCH_3$	460-43-5	11
HFE-329mcc2	$CHF_2CF_2OCF_2CF_3$	67490-36-2	919
HFE-338mcf2	$CF_3CH_2OCF_2CF_3$	156053-88-2	552
HFE-347mcf2	$CHF_2CH_2OCF_2CF_3$	E1730135	374
HFE-356mec3	$CH_3OCF_2CHFCF_3$	382-34-3	101
HFE-356pcf2	$CHF_2CH_2OCF_2CHF_2$	E1730137	265
HFE-356pcf3	$CHF_2OCH_2CF_2CHF_2$	35042-99-0	502
HFE 365mcf3	$CF_3CF_2CH_2OCH_3$	378-16-5	11
HFE-374pc2	$CHF_2CF_2OCH_2CH_3$	512-51-6	557
	- $(CF_2)_4CH(OH)$ -		73
	$(CF_3)_2CHOCHF_2$		380
	$(CF_3)_2CHOCH_3$	13171-18-1	27
Section 3: ***Other perfluorinated compounds***			
PFPMIE	$CF_3OCF(CF_3)CF_2OCF_2OCF_3$		10300
nitrogen trifluoride	NF_3	7783-54-2	17200
trifluoromethyl sulphur pentafluoride	SF_5CF_3	373-80-8	17700

perfluorocyclopropane	c-C_3F_6	931-91-9	17340 [Fn 3]

2. COMPLEMENTARY INFORMATION TO ANNEX III.

1. Critical uses in HFC 23 in fire extinguishers.

There are several situations where there are no other viable alternatives to the use of HFC-23. There are multiple reasons why HFC-23 is often the only viable alternative as fire fighting solution:

- Low molecular weight.
- High lethal concentration
- It does not cause hypoxia.
- High filling pressure
- It has no cardiotoxic effect in humans.
- Short extinguishing time.

The reasons given in the previous point give to the designer of an extinguishing system multiple reasons because this is the only possible option for an extinguishing solution.

1.1. High enclosures

The low molecular weight of the HFC-23 ensures an equal distribution of the gas throughout any room/space, which means that – different from other gases such as Novec for example - HFC-23 also penetrates the highest part of the protected enclosure. This advantage is more relevant in the case of enclosures with high ceilings, typically above 3 meters, where fires might otherwise not be extinguished.

1.2. Manned areas or enclosures

The safety limits of this gas allow the use of the design concentration below the toxic and lethal values even in hazards with high fire loads. The alternative for the protection of these hazards is the CO2, but this gas cannot be used in occupied areas because of the suffocating effect of this gas. Other alternatives like Novec, can be used in manned areas but cannot extinguish hazards with high fire loads. Finally, inert gas cannot be used because of its suffocating effect.

1.3. Large enclosures or long pipings.

Thanks to the high vapor pressure of this gas this is the only halogenated extinguishing agent which can be filled at high pressures (around 140 bar at 50ºC). It allows to use this agent in rooms where a large distribution network is needed for covering the whole enclosure, especially in large enclosures or in hazards where the gas cannot be stored near to the protected area.

1.4. Short extinguishing time

Thanks to the phisico-chemical properties of this agent, the maximum extinguishing time is below 20 seconds. For other gases (other halocarbonated gases and inert gases is above 120 seconds, for Novec 1230 this extinguishing time is 290 seconds). Therefore this extinguishing agent is the only solution for hazards where a fast growing of the fire is expected and a short time for the extinguishing is needed.

2. Critical applications of the HFC-23

Given the technical justifications above we have identified several applications where the use of HFC 23 as extinguishing agent could be the only possible solution.

2.1. Server rooms

Hazard definition
These hazards can be defined as enclosures where electronic equipment is stored and used for providing computer and communication services.

Main features
These enclosures are typically occupied by maintenance staff or computer technicians. The fire load is normally high and in some cases these are large enclosures where the equipment reaches the ceiling. The electronic equipments have a high fire load.

2.2. Archives

Hazard definition
Enclosures where a large amount of paper is stored.

Main features
These enclosures are typically occupied by persons in charge of the filing of documents in public administrations and private companies. The fire load is normally high and in some cases the files are stored so they reach the ceiling.

2.3. Museums and historical buildings

Hazard definition
These are locations where high value objects are exposed. Typically they are historical buildings with an ancient history as museums, churches, etc.

Main features
These enclosures are typically occupied by visitors, guides and other employees.

2.4. Computer rooms

Hazard definition
These hazards can be defined as enclosures where computer equipment is stored.

Main features
These enclosures are typically occupied by computer technicians or computer operators. The fire load is normally high. The electronic equipment has a high fire load.

2.5. Data Processing Centre

Hazard definition
These hazards can be defined as enclosures where electronic equipment is stored.

Main features
These enclosures are typically occupied by maintenance staff or computer technicians. The fire load is normally high and in some cases these are large enclosures where the equipment reaches the ceiling. The electronic equipment has a high fire load. The extinguishing time must be shortest as possible.

2.6. Machinery spaces

Hazard definition
These hazards can be defined as enclosures where machinery of any type can be found.

Main features
These enclosures are typically occupied by machinery used for different purposes (manufacturing, generation of electricity, locomotives, etc.). The fire load is normally high because of the existence of mechanical equipment, gear boxes, turbines, etc. Normally electronic equipment can be found. All these devices have a high fire load. These enclosures can be eventually occupied by staff in charge of the maintenance and service of the mentioned machinery.

3. Suitability of HFC-23

This gas can be used in manned enclosures. The extinguishing time must be shortest as possible and this gas is able of a fast extinguishing in a short time. Due to the high storage pressure it can be used in large enclosures where a long piping and a long network is needed. This gas in contact with the fire does not produce HF, this Fluoride Acid damages the electronic equipment and the historical goods which must be preserved.

4. Alternatives

- Inert gas: it cannot be used in manned enclosures. It has low capacity for successful extinguishing of high fire loads and it has long extinguishing time. Due to the high storage pressure (up to 300 bar) it can damage old constructive elements (glass windows, woods walls, etc.) because of the overpressure.

- CO2: It cannot be used in manned enclosures. Long extinguishing time.
- HFC-227ea or Novec 1230: low capacity or successful extinguishing of high fire loads. This gas in contact with the fire does produces HF, this Fluoride Acid damages the electronic equipment. Due to the low pressure of storage these gases cannot be used where a large pipe network is needed. Novec 1230 is not able to reach and protect high rooms (churches, etc.). Long extinguishing time. Due to the low pressure of storage these gases cannot be used where a large pipe network is needed

Currently in the market does not exist an extinguishing agent which could cover all the advantages for the specific cases that have been described in this document.

HUNGARY

Article 4

Hungary welcomes the introduction of the new CO2 unit, as we believe it is a more appropriate way of measuring emissions than the previous volume unit. However, it is not clear what the source of the GWP value is. Maybe there should be a reference in the text indicating where the GWP value comes from, so that Member States can identify it and make their calculations in an appropriate way.

Article 10

We welcome provisions on labelling, and we can accept them as they are. However, we would have an additional suggestion for consideration, which might help to increase the efficiency of the regulation. Persons who install, service, or maintain equipment should use labelling, which indicates the GWP value of the equipment at that time. This would be a cheap and easy way of raising awareness in the population, and it could start in 2014 instead of 2017.

However, as we have said before, the source of the GWP value should be made clear, so that persons in charge could calculate it in an appropriate way.

Article 11

We welcome the Presidency's changes to the text, and the fact that the new restrictions only apply to equipment over 40 tons or -50 degrees. It is a more efficient way of controlling emissions, as large equipments are responsible for the majority of emissions, not small ones. It also allows more room for business manoeuvre for manufacturers.

However, we believe the 1 January 2020 deadline is too early for prohibition, as manufacturers should be given more time to schedule their investments. Perhaps a 2025 or 2030 deadline would be more suitable.

Article 12

Hungary has grave concerns over the restrictions on pre-charging. In our opinion, it would be safer from an environmental point of view to pre-charge equipments in factories, as the risk of leakage is much lower at the place of production, in professional circumstances, than in the case of charging in the field. Pre-charging in the factory is the most professional and most environment friendly solution, upon the condition that these equipments can be purchased and installed only by certified companies or certified persons, as it is in Hungary now. The solution might be to ban uncertified companies or persons from installing and pre-charging equipment, to ensure that charging takes place among professional circumstances.

Article 13

We cannot support Annex V in its present format. The phase-down should be based on a more realistic baseline, with reduction steps which are more balanced and suit the needs of manufacturers. We would consider a provision of 75% for 2020, 44% for 2026 and 34% for 2030. This way, manufacturers would be more protected from losing investment. The regulation is making requirements which are not yet matched by technology – for example, refrigerants with a GWP of less than 150 should already be used in the new cars, when in reality they are not yet fully operational.

In the case of reduction of the placing on the market of F-Gases, we think that a reduction of 66% by 2030 instead of 79% would be better. Present alternatives substitutes for F-Gases are less effective in terms of energy efficiency, and in many cases more flammable and toxic.

The phase-down needs to be based on a more realistic baseline than the presently suggested 2008-2011. The baseline needs to be increased with 20% in order to fully reflect HFC quantities contained in imported pre-charged equipment and HCFCs contained in existing equipment which need to be replaced by HFCs. The baseline also needs to cover all imported HFC quantities, whether they are contained in pre-charged equipment or used for foams or others, and to adapt the HFC quota allocation mechanism accordingly by opening it up to such importers. This way, the phase down process would be more effective, and suit manufacturers needs better.

Also, we strongly oppose to empowering the Commission to adopt delegated acts regarding the list in Annex V. We believe this should remain a Member State competence, as measures can highly affect their economic development and competitiveness, and they are more able to protect manufacturer investments in an appropriate way.

Article 14
We would prefer a higher baseline for gradual reduction than the presently suggested 2008-2011. The curve of the reduction is more appropriate if it is based on more realistic values, and it also helps protecting manufacturers from losing their investment. Therefore, we would like to include 2012 in the baseline.

Also, we strongly oppose to empowering the Commission to adopt delegated acts regarding the baseline. We believe this should remain a Member State competence, as measures can highly affect their economic development and competitiveness, and they are more able to protect manufacturer investments in an appropriate way.

NETHERLANDS

General Remark: The preambula should be checked against the final text in a later stage, in order to align the preambula text with the operative articles. Furthermore the preambula text could be more explanatory in relation to the scope of the regulation, specifically with regard to the requirements for mobile equipment.
In a separate annex an option for pre-charging of equipment is presented, based on putting pre-charged equipment under the cap.

Article	Text	Amendment	Justification
0 **Additional paragraph**	-	**This regulation shall apply to fluorinated greenhouse gases and to products and equipment containing or who's functioning relies on fluorinated greenhouse gases.**	*It may be useful to add a paragraph to describe the general scope of the Regulation [Source: Ozone regulation 1005/2009].*
0	The objective of this Regulation is to protect the environment by reducing emissions of fluorinated greenhouse gases, and by the adoption of related ancillary measures. Accordingly, this Regulation lays down rules on containment, use, recovery and destruction of fluorinated greenhouse gases, and prohibits ~~**specific uses of these gases,**~~ whilst setting out quantitative limits for the placing on the market of hydrofluorocarbons.	The objective of this Regulation is to protect the environment by reducing emissions of fluorinated greenhouse gases, and by the adoption of related ancillary measures. Accordingly, this Regulation lays down rules on containment, use, recovery and destruction of fluorinated greenhouse gases, and prohibits **placing on the market of specific products and equipment containing fluorinated greenhouse gases, and specific uses of these gases** whilst setting out quantitative limits for the placing on the market of hydrofluorocarbons.	*This regulation prohibits both the placing of the market of specific products and equipment containing fluorinated greenhouse gases and specific use of these gases. Both types of prohibitions should be reflected in this article.*

1.10	'placing on the market' means supplying or making available to another party in the Union for the first time, for payment or free of charge, or using for its own account in the case of a producer, ~~or~~ importing into the customs territory of the Union under a customs procedure that allows use or operation of the imported goods in the Union;	'placing on the market' means supplying or making available to another party in the Union for the first time, for payment or free of charge, or using for its own account in the case of a producer, **and includes** importing into the customs territory of the Union under a customs procedure that allows use or operation of the imported goods in the Union **and includes the release for free circulation in the Community;** **In respect of products and equipment being part of means of transport this refers only to the supplying or making available within the Union of products and equipment being part of new means of transport.**	*Text is based on the definition of placing on the market of ozone depleting substances under Regulation (EC) No 1005/2009. The release for free circulation in the EU should be included.* *Furthermore, it should be clear that when ships are changing flags from non-EU flag to EU flag, this is not to be understood as 'placing on the market'.* *The text proposal is reflecting the fact that only **new** ships or other means of transport with f-gas containing equipment are considered as placing on the market.*
1.X **addition**	-	'technical aerosol' means an aerosol dispenser used in maintenance, repair, cleaning, fixing, testing, disinfecting, manufacturing, installation of various products and equipment and in other applications where a non-flammable formulation is required.	*Additional definition because of proposed addition of technical aerosols in Annex III (see under Annex III).* *Builds on EP amendment 7 and the description of technical aerosols in the IPCC/TEAP Special Report, 2005 (*p. 382-385)[4].

[4] *Safeguarding the ozone layer and the global climate system. Issues related to Hydrofluorocarbons and Perfluorocarbons*

3.1	Operators of equipment that contains fluorinated greenhouse gases with a global warming potential equivalent to 5 tonnes of CO_2, **or more,** not contained in foams shall ensure that the equipment is checked for leakage. However, ~~equipment with~~ hermetically sealed **equipment** ~~systems~~ **or equipment sealed upon installation** ~~which are labelled as such,~~**and** containing fluorinated greenhouse gases with a global warming potential equivalent to less than 10 tonnes CO_2, shall not be subject to leak checks under this Article**, provided such equipment is labelled as hermetically sealed or sealed upon installation**	Operators of equipment that contains fluorinated greenhouse gases with a global warming potential equivalent to ~~5~~ **15** tonnes of CO_2, **or more,** not contained in foams shall ensure that the equipment is checked for leakage. However, ~~equipment with~~ hermetically sealed **equipment** ~~systems~~ **or equipment sealed upon installation** ~~which are labelled as such,~~**and** containing fluorinated greenhouse gases with a global warming potential equivalent to less than ~~10~~ **30** tonnes CO_2, shall not be subject to leak checks under this Article**, provided such equipment is labelled as hermetically sealed or sealed upon installation**	*Changing the threshold from 3 kg to 5 tonnes of CO2 eq would expand the scope of this article considerably, since for most applications it would mean a threshold of ~1kg refrigerant instead of 3 kg (a factor 3). The (administrative) burden of companies would increase considerably. Following the results of different studies on leakages, where it became apparent that more than 90% of emissions due to leakages were from installations > 30 kg, The Netherlands believes that lowering the threshold is actually not justified at all.* *In previous comments The Netherlands expressed preference to keep the threshold at 3kg. However, The Netherlands understand the rationale to change to tonnes CO2 eq. In that case The Netherlands strongly advises to increase the proposed threshold to 15 tonnes of CO2 eq.* *See also 3.2*
3.2	The checks pursuant to paragraph 1 shall be carried out with the following frequency: (a) equipment that contains fluorinated greenhouse gases with a global warming potential equivalent to 5 tonnes of CO_2 or more but to less than 50 tonnes of CO_2, shall be checked for leakage at least once every 12 months;	The checks pursuant to paragraph 1 shall be carried out with the following frequency: (a) equipment that contains fluorinated greenhouse gases with a global warming potential equivalent to ~~5~~ **15** tonnes of CO_2 or more but to less	*Thresholds are changed as a result of proposed thresholds in 3.1, to avoid high administrative burden.NL supports the threshold of 500 tonnes for larger equipment. A stricter regime for equipment > 30 kg (150 tonnes) is justified by the fact that considerable*

	(b) equipment that contains fluorinated greenhouse gases with a global warming potential equivalent to 50 tonnes of CO_2 or more, but to less than 500 tonnes of CO_2, shall be checked for leakage at least once every six months **or, where a leakage detection system has been installed, every 12 months** ; (c) equipment that contains fluorinated greenhouse gases with a global warming potential equivalent to 500 tonnes of CO_2 or more shall be checked for leakage at least once every three months **or, where a leakage detection system has been installed, every six months**	than ~~50~~ **150** tonnes of CO_2, shall be checked for leakage at least once every 12 months; (b) equipment that contains fluorinated greenhouse gases with a global warming potential equivalent to ~~50~~ **150** tonnes of CO_2 or more, but to less than 500 tonnes of CO_2, shall be checked for leakage at least once every six months **or, where a leakage detection system has been installed, every 12 months** ; (c) equipment that contains fluorinated greenhouse gases with a global warming potential equivalent to 500 tonnes of CO_2 or more shall be checked for leakage at least once every three months **or, where a leakage detection system has been installed, every six months**	*leakages occur in 20-25% of equipment > 30 kg.*

5.1	Operators of equipment **listed in Article 3(1)**, shall for each piece of **such** equipment establish and maintain records of the following information identifying the equipment: a) the quantity and type of fluorinated greenhouse gases installed, **specifying, where applicable, the quantity contained in a device for automatic topping up;** b) the quantities of fluorinated greenhouse gases added and the reasons for adding them; c) the quantity of fluorinated greenhouse gases recovered; d) ~~observed leakage rates;~~ e) an identification of the undertaking and the person who installed, serviced, maintained and, where applicable, repaired or decommissioned the equipment; f) the dates and results of the checks carried out under Article 3(1) and (3); g) if the equipment was decommissioned, the measures taken to recover and dispose of the fluorinated greenhouse gases.	Operators of equipment **listed in Article 3(1)**, shall for each piece of **such** equipment establish and maintain records of the following information identifying the equipment: a) the quantity and type of fluorinated greenhouse gases installed, ~~**specifying, where applicable, the quantity contained in a device for automatic topping up;**~~ b) the quantities of fluorinated greenhouse gases added and the reasons for adding them; c) the quantity of fluorinated greenhouse gases recovered; d) ~~observed leakage rates;~~ e) an identification of the undertaking and the person who installed, serviced, maintained and, where applicable, repaired or decommissioned the equipment; f) the dates and results of the checks carried out under Article 3(1) and (3); g) if the equipment was decommissioned, the measures taken to recover and dispose of the fluorinated greenhouse gases.	*The Netherlands support the addition 'listed in article 3 (1).* *It avoids disproportionate measures leading to high administrative burden in e.g. the automobile sector.* *The Netherlands believe that the additional text under 'a)' is already included in the general paragraph under a). Furthermore the Netherlands believe that in order not to exclude possible similar applications in the future, it is preferable to keep the formulation as general as possible.* *It should also be avoided to 'promote' **automatic topping up** devices which are quite clearly not preferable from the environmental point of view.*

6.1	Producers of fluorinated compounds shall take all the precautions necessary to limit emissions of fluorinated greenhouse gases, to the greatest extent possible, during production, transport and storage. Those producers shall ensure that ~~any~~ trifluoromethane (HFC-23) produced as a by-product **as part of the manufacturing process** ~~in significant quantities~~ is destroyed~~as part of the manufacturing process~~ **in line with best available techniques.**	Producers of fluorinated compounds shall take all the precautions necessary to limit emissions of fluorinated greenhouse gases, to the greatest extent possible, during production, transport and storage. Those producers shall ensure that ~~any~~ trifluoromethane (HFC-23) produced as a by-product **~~as part~~ of the manufacturing process** ~~in significant quantities~~ is destroyed~~as part of the manufacturing process~~ **in line with best available techniques.**	*Text improvement: the HFC-23 is produced as a by-product of the manufacturing process.*

7.1	Operators of equipment~~, including mobile equipment~~, that contains fluorinated greenhouse gases not contained in foams, shall put arrangements in place for the~~ir~~ recovery of those gases by persons and undertakings that hold the relevant certificates provided for by Article 8, to ensure that those gases are recycled, reclaimed or destroyed.	Operators of equipment~~,~~ ~~including mobile equipment~~, that contains fluorinated greenhouse gases not contained in foams, shall **~~put~~ arrange~~ments in place~~ arrange** for the~~ir~~ recovery of those gases by persons and undertakings that hold the relevant certificates provided for by Article 8, to ensure that those gases are recycled, reclaimed or destroyed. **Operators of mobile equipment that contains fluorinated greenhouse gases not contained in foams arranging for the recovery of fluorinated greenhouse gases outside EU territory need to ensure that persons and undertakings are appropriately qualified to ensure that those gases are recycled, reclaimed or destroyed.]**	*The Netherlands suggests to replace 'put arrangements in place' by 'arrange for' in order to improve clarity. Putting in place arrangements, is read by some stakeholders as having the contracts already in place from the beginning, whereas recovery may not be relevant before the first 20 years, when the installation will be decommissioned. However, the article is meant to have the operators be responsible to make sure the gases are recovered.* *The additional text is proposed for the situation of the arrangement of recovery from mobile equipment (for example EU flagged ships in non-EU territories), where certified personnel in conformity with article 8 is not available.*
7.3	Prior to disposal of a fluorinated greenhouse gas container, **its**~~the person who used the container for transport or storage~~ **final user** shall arrange for the recovery of any residual gases to make sure they are recycled, reclaimed or destroyed.	**The person or undertaking who used the container for transport or storage** ~~P~~**p**rior to disposal of a fluorinated greenhouse gas container, **its**~~the person or undertaking who used the container for transport or storage~~ **final user** shall arrange for the recovery of any residual gases to make sure they are recycled, reclaimed or destroyed.	*The responsibility should be very clear. It is not clear who is meant by **'final user'** in the presidency text.* *The Netherlands would suggest to include both the person **AND** the undertaking that used the container for storage or transport, similar to the formulation used in the existing obligation under the F-gasregulation 842/2006.*

8.1	Member States shall establish ~~training and~~ certification programmes, **including evaluation processes,** ~~for the following persons~~ **and shall ensure that training is available for the following persons**: (a) persons who install, service, maintain, repair or decommission of the equipment listed in the third subparagraph of Article 3(1); ~~(b) persons who install, service, maintain, repair or decommission electrical switchgear that contains SF6;~~ (b) persons who carry out the leak checks provided for in Article 3(1); (c) persons who recover fluorinated greenhouse gases as provided for in Article 7; **(d) persons who install, service, maintain, repair or decommission mobile air conditioning equipment.**	Member States shall establish ~~training and~~ certification programmes, **including evaluation processes,** ~~for the following persons~~ **and shall ensure that training is available for the following persons**: (a) persons who install, service, maintain, repair or decommission of the equipment listed in the third subparagraph of Article 3(1); ~~(b) persons who install, service, maintain, repair or decommission electrical switchgear that contains SF6;~~ (b) persons who carry out the leak checks provided for in Article 3(1); (c) persons who recover fluorinated greenhouse gases as provided for in Article 7; ~~**(d) persons who install, service, maintain, repair or decommission mobile air conditioning equipment.**~~	*The Netherlands support the presidency text deleting the 'trainingprogrammes' in 8.1 and 8.2 leading to a more practicable situation.* *The Netherlands does **not** support the text **8.1.d.** This obligation would lead to disproportional costs, especially for installation and maintenance of car airco's.Furthermore including mobile airconditioning equipment and not mobile refrigeration or other mobile equipment does not seem a consistent approach, taking into account the evaluation study of the F-gas Regulation.* *However, under **c)** recovery of f-gases from mobile equipment (both airconditioning, refrigeration and fireprotection) **IS** subject to certified personnel.*

9.3	The Commission shall be empowered to adopt delegated acts in accordance with Article 20 amending the list set out in Annex III to include other products and equipment that contain fluorinated greenhouse gases with a global warming potential of 150 or more, or that rely on them to work, if it has been established that alternatives to the use of fluorinated greenhouse gases or to the use of specific types of fluorinated greenhouse gases are available, and their use would result in lower overall greenhouse gas emissions and to exclude, where appropriate for a specified period of time, certain categories of products or equipment for which alternative substances which fall below the specified global warming potential limit are not available for technical, economic or safety reasons.	The Commission shall be empowered to adopt delegated acts in accordance with Article 20 amending the list set out in Annex III to include other products and equipment that contain fluorinated greenhouse gases ~~**with a global warming potential of 150 or more**~~, or that rely on them to work, if it has been established that alternatives to the use of fluorinated greenhouse gases or to the use of specific types of fluorinated greenhouse gases are available, and their use would result in lower overall greenhouse gas emissions and to exclude, where appropriate for a specified period of time, certain categories of products or equipment for which alternative substances which fall below the specified global warming potential limit are not available for technical, economic or safety reasons.	*The Netherlands support this delegation, if it is based on the availability of technically en economically feasible alternatives. The* ***GWP > 150 thresholds in 9.3 is not necessary*** *and would limit the possibility to effectively ban HFC equipment where cost-effective climate friendly alternatives are readily available.*

9.4	**For the purposes of carrying out the activities referred to in Article 8(1) (a) to (d) fluorinated greenhouse gases shall only be sold to and purchased by undertakings and persons that hold the relevant certificates in accordance with Article 8.**	**For the purposes of carrying out the activities referred to in Article 8(1) (a) to (d) fluorinated greenhouse gases shall only be sold to and purchased by undertakings and persons that ~~hold the relevant certificates in accordance with Article 8~~ are registered.** **[Member States] [the Commission] shall set up and maintain a register of appropriately qualified personel and undertakings, including undertakings and persons that hold the relevant certificates in accordance with Article 8.**	*The Netherlands support the intent of the article to ensure that greenhouse gases are purchased by appropriately qualified or certified personnel or undertakings.* *The present text would exclude operators of e.g. mobile refrigeration equipment (other than refrigerated trucks and refrigerated trailers) to purchase HFCs for the maintenance and servicing and equipment, since article 8 does not include mobile refrigeration equipment (e.g on ships).* *The Netherlands would suggest to replace the requirement to hold a certificate by a registration requirement. In practice certification bodies would maintain registers already. The registration would also include qualified distributors of F-gases, personnel and undertakings that perform activities on equipment not falling under the scope of article 8 and therefore be more complete.*

9 **Addition 9.5**	-	**9.5.** **By way of derogation the Commission may, following a request by a competent authority of a Member State and in accordance with the Committee procedure referred to in article 21, authorize a time-limited exemption to allow the placing on the market of products and equipment containing or whose functioning relies upon fluorinated greenhouse gases where it is demonstrated that, for a particular application, technically and economically feasible alternative technologies are not available or cannot be used.**	*In the Commission proposal page 9, under 'Proportionality principle' a derogation option is proposed:* *'Where restrictions on certain F-gas applications are envisaged, the proposal ensures that technically and economically feasible alternatives are available.* ***If under particular circumstances this is not the case, it allows derogations to be granted.'*** *This option has not been implanted in the articles.* *This proposal is a suggestion to put this derogation option in Article 9 to make it effective in special cases that were not foreseen. In order to increase the barrier to use this derogation, the exemption should be time-limited and on request of member state (assuming the member state would preliminary evaluate the availabilities of alternatives), and authorised by the Commission assisted by a committee in accordance with article 21.The same procedure is followed under Ozone regulation 1005/2009.*
9 **Addition 9.6**		**Memberstates shall take proportionate measures to discourage export of used products and**	*The Netherlands would like to prevent export of used products or equipment under the*

		equipments for which the placing on the market is prohibited in Annex IV.	*placing on the market prohibitions in Annex III. This addition is a reasonable proposal to to make this feasible.* *In this stage a complete ban of export of Annex III prohibited products and equipment, though on the basis ethical and environmental arguments defendable, may lead to significantly negative economical effects that may lead to companies leaving the EU. See also under article 19, where the Netherlands proposes to include export in the review.*
10.2 under c	As of 1 January 2017, the quantity of greenhouse gases contained in the product or equipment, expressed in weight and in CO_2 equivalent.	As of 1 January 2017, the quantity of greenhouse gases contained in the product or equipment, expressed in weight**,** and in CO_2 equivalent and the **GWP**.	*The Netherlands would strongly advise to include the GWP of the relevant F-gas. This to make the user conscious of the climate impact of the used gasses.*
10.4	Foams that contain fluorinated greenhouse gases shall not be placed on the market unless the fluorinated greenhouse gases are identified with a label using the accepted industry designation or, if no such designation is available, the chemical name. The label shall clearly indicate that the foam contains fluorinated greenhouse gases. In the case of foam boards, this information shall be clearly and indelibly stated on the boards.	Foams that contain fluorinated greenhouse gases shall not be placed on the market unless the fluorinated greenhouse gases are identified with a label using ~~the accepted industry designation or, if no such designation is available,~~ the chemical name. The label shall clearly indicate that the foam contains fluorinated greenhouse gases. In the case of foam boards, this information shall be clearly and indelibly stated on the boards.	*It is unclear what is meant with **'the accepted industry designation'** to be indicated on the label and what it would contribute to the objective of the labeling requirements i.e. to inform which gases are contained in the foam.* *The Netherlands therefore suggest to limit the obligation to label foams that contain fluorinated greenhouse gases to the chemical name.*

11.3	The use of fluorinated greenhouse gases, or of mixtures that contain fluorinated greenhouse gases, with a global warming potential of 2500 or more, to service or maintain refrigeration equipment with a charge size equivalent to **40** tonnes of CO_2 or more, shall be prohibited from 1 January 2020**. This provision shall not apply to equipment intended for applications < -50°C.**	The use of fluorinated greenhouse gases, or of mixtures that contain fluorinated greenhouse gases, with a global warming potential of ~~**2500**~~ **2150** or more, to service or maintain refrigeration equipment with a charge size equivalent to **40** tonnes of CO_2 or more, shall be prohibited from 1 January 2020**. This provision shall not apply to equipment intended for applications < -50°C.**	*The Netherlands would support to lower the GWP threshold for high GWP HFCs from 2500* ***to 2150.*** *There are enough alternatives under GWP 2150 in refrigeration.* ***This would apply throughout the text in paragraph 11.3 and Annex III****.*

11.3 **Addition 11.3b**	The use of fluorinated greenhouse gases, or of mixtures that contain fluorinated greenhouse gases, with a global warming potential of 2500 or more, to service or maintain refrigeration equipment with a charge size equivalent to **40** tonnes of CO_2 or more, shall be prohibited from 1 January 2020**. This provision shall not apply to equipment intended for applications < -50°C.** For the purpose of this provision, the global warming potential of mixtures that contain fluorinated greenhouse gases shall be calculated pursuant to Annex IV. Until 1 January 2025, this provision shall not apply to reclaimed fluorinated greenhouse gases with a global warming potential of 2500 or more used for the maintenance or servicing of existing refrigeration equipment, provided that they have been labelled in accordance with Article 10 (5) Until 1 January 2025 this provision shall not apply to recycled fluorinated greenhouse gases with a global warming potential of 2500 or more used for the maintenance or servicing of existing refrigeration equipment provided they have been recovered from such equipment. Such recycled gases may only be used by the undertaking which carried out their recovery as part of maintenance or servicing or the undertaking for which the recovery was carried out as part of maintenance or servicing. For the purpose of this provision, the global warming potential of mixtures that contain fluorinated greenhouse gases shall be calculated pursuant to Annex IV.	**11.3a.** The use of fluorinated greenhouse gases, or of mixtures that contain fluorinated greenhouse gases, with a global warming potential of ~~2500~~ **2150** or more, **in stationary equipment** to service or maintain refrigeration equipment with a charge size equivalent to **40** tonnes of CO_2 or more, shall be prohibited from 1 January 2020**. This provision shall not apply to equipment intended for applications < -50°C.** For the purpose of this provision, the global warming potential of mixtures that contain fluorinated greenhouse gases shall be calculated pursuant to Annex IV. Until 1 January 2025, this provision shall not apply to reclaimed fluorinated greenhouse gases with a global warming potential of ~~2500~~ **2150** or more used for the maintenance or servicing of existing refrigeration equipment, provided that they have been labelled in accordance with Article 10 (~~5~~**1-4**)	*Comparable approach for stationary and mobile equipment, with different prohibition dates to make phase down feasible. Allowing more time for mobile equipment. This is also in line with the proposed placing on the market bans in Annex III under 13 and 14 (presidency proposal).* *The reference to article 10.5 needs to be replaced by article 10.1-10.4. Article 10.5 is referring to the instruction manual, which is not relevant in relation to the labeling provisions that are meant to be reflected. These labeling provisions are in* ***article 10 para 1-4.***

		Until 1 January 2025 this provision shall not apply to recycled fluorinated greenhouse gases with a global warming potential of 2500 or more used for the maintenance or servicing of existing refrigeration equipment provided they have been recovered from such equipment. Such recycled gases may only be used by the undertaking which carried out their recovery as part of maintenance or servicing or the undertaking for which the recovery was carried out as part of maintenance or servicing. For the purpose of this provision, the global warming potential of mixtures that contain fluorinated greenhouse gases shall be calculated pursuant to Annex IV. **11.3b.** The use of fluorinated greenhouse, or of mixtures that contain fluorinated greenhouse gases, with a global warming potential of ~~2500~~ **2150** or more gases **in mobile equipment**, to service or maintain refrigeration equipment with a charge size equivalent to **40** tonnes of CO_2 or more, shall be prohibited from 1 January **2025**	

		For the purpose of this provision, the global warming potential of mixtures that contain fluorinated greenhouse gases shall be calculated pursuant to Annex IV. Until 1 January **2030**, this provision shall not apply to reclaimed fluorinated greenhouse gases with a global warming potential of ~~2500~~ **2150** or more used for the maintenance or servicing of existing refrigeration equipment, provided that they have been labelled in accordance with Article 10 (~~5~~**1-4**) Until 1 January **2030** this provision shall not apply to recycled fluorinated greenhouse gases with a global warming potential of ~~2500~~ **2150** or more used for the maintenance or servicing of existing refrigeration equipment provided they have been recovered from such equipment. Such recycled gases may only be used by the undertaking which carried out their recovery as part of maintenance or servicing or the undertaking for which the recovery was carried out as part of maintenance or servicing. For the purpose of this provision, the global warming potential of mixtures that contain fluorinated greenhouse gases shall be calculated pursuant to Annex IV.	

12	*Pre-charging of equipment* 1. From [dd/mm/yyyy] [*insert date 3 years after entry into force of this regulation*], refrigeration, air-conditioning and heat pump equipment shall not be charged with hydrofluorocarbons before it is placed on the market or before it is made available to the end-user for its first installation. The equipment shall be charged where it is intended to be used, by persons certified in accordance with Article 8. 2. Paragraph 1 shall not apply to hermetically sealed equipment or to equipment that contains a quantity of hydrofluorocarbons corresponding to less than 2 % of the equipment's foreseen maximum capacity.	*See separate Annex for two options for pre-charged equipment based on bringing pre-charged equipment under the cap.*	

13 See also 17 and 19.	*Reduction of the placing on the market of hydrofluorocarbons* 1. The Commission shall ensure that the quantity of hydrofluorocarbons that producers and importers are entitled to place on the market in the Union each year does not exceed the maximum quantity for the year in question calculated in accordance with Annex V. Each producer and importer shall ensure that the quantity of hydrofluorocarbons calculated in accordance with Annex V that it places on the market does not exceed the quota allocated to it pursuant to Article 14(5) or transferred to it pursuant to Article 16. **It shall not apply to producers or importers of less than 1 000 tonnes of CO_2 equivalent of hydrofluorocarbons per year.**	**It shall not apply to producers or importers of less than 1 000 tonnes of CO_2 equivalent of hydrofluorocarbons per year.**	*The 1000 tonnes CO2 equivalent threshold may lead to loopholes. For example direct import by users in smaller quantities. This may also be the case in article 17.* *On the other hand the use of a threshold avoids administrative burden.* *For that reason THE Netherlands proposes to evaluate the effectiveness of this threshold by 2020, (see Article 19), based on the data on the first phase down step. This will make it possible to reconsider thresholds if there are significant negative effects.*

13.4	The Commission shall be empowered to adopt delegated acts in accordance with Article 20 (a) amending the maximum quantities set out in Annex V in the light of developments of the market in hydrofluorocarbons and related emissions; and (b) exempting the placing on the market for specific uses from the quota requirement laid down in paragraph 1 where the use of hydrofluorocarbons is necessary for health or safety reasons and a sufficient supply would otherwise not be ensured.		*The Netherlands does not support this delegated act. It covers the scope of the phase down and is to essential for delegation.*

18	~~*Article 18*~~ ~~*Collection of emissions data*~~ ~~1. Member States shall collect data on emissions of fluorinated greenhouse gases.~~ ~~For that purpose they shall establish one of the following systems, as appropriate:~~ ~~(a) a system whereby a database is kept at national level for the collection of the data recorded in accordance with Article 5(1);~~ ~~(b) a system whereby surveys on emissions from a representative sample of operators covered by the provisions of Article 5(1) are carried out, and results are extrapolated from those surveys.~~ ~~2. The data collected in accordance with paragraph 1 shall be made available to the Commission on request. The Commission may disseminate those data to the other Member States.~~ ~~3. The Commission shall be empowered to adopt delegated acts in accordance with Article 20 establishing requirements for the data collection systems referred to in the second subparagraph of paragraph 1 of this Article and laying down whether, for specific sectors, a system shall be established in accordance with point (a) or point (b) of the second subparagraph of paragraph 1 of this Article.~~	**Member States shall establish reporting systems for the relevant sectors referred to in this Regulation with the objective of acquiring, to the extent possible, emission data.**	*The Netherlands does **not support the complete deletion of Article 18**. This article is important to get better emission data. The Netherlands is open to keep article 18.2 and supports **deletion of article 18.3**.* *The Netherlands believe that a clause that requires MS to set up a reporting system with the objective to acquire emission data is useful, but it should not be prescriptive. It should be taken into account that MS already have set up systems to be able to report emissions under the obligations of the monitoring greenhouse gases to both the EU and the Kyoto Protocol.* *The Netherlands would therefore propose a similar clause as in the present Regulation 842/2006 under article 6.4.*

19.3	On the basis of information on the placing on the market reported in accordance with Article 17 and on emissions of fluorinated greenhouse gases made available in accordance with Article 18~~(2),~~ the Commission shall monitor the application and effects of this Regulation. ~~No later than 31 December 2020, the Commission shall publish a report on the availability of hydrofluorocarbons on the Union market, in particular for medical applications.~~ No later than 31 December 2024, it shall publish a comprehensive report on the effects of this Regulation, including a forecast of the continued demand for hydrofluorocarbons after 2030.	**No later than 31 December 2020 it shall publish a comprehensive report on the effects of this regulation, including the amounts of HFCs and [new and used], HFC-containing products and equipment produced, imported, exported for use or destruction, the effects of thresholds and a forecast of the continued demand in the Community for HFCs after 2030.**	*The Netherlands does not support deletion of the second line under 19.3. The Netherlands is in favor of an early first review of the effects of this regulation, in order to be able to react adequately on negative effects and innovations.* *Also export has to be taken in to account (see also article 9, proposed addition 9.6).* *The effects of thresholds (the possible creation of loopholes) should also be reviewed. See also article 13 and 17.* *The text proposal is based on the original text with additions.*
24	Entry into force This Regulation shall enter into force on the 20th day following that of its publication in the Official Journal of the European Union. It shall apply from 1 January 2014.	Entry into force This Regulation shall enter into force **on the 20th day following that of its publication** in the Official Journal of the European Union. **It shall apply from 1 January 2014.**	*Memberstates need at least **one year** from publication to implement this regulation correctly.*

Annex III			*Additions in Annex III are proposed for products and equipment where in short term better alternatives are available which are not in the Commision's proposal. The starting point is to give a clear signal to the market, allowing reasonable transition periods, even if these periods are long term. The Netherlands support the basic principle that placing on the market will be prohibited five years before the service ban (Article 11). This proposal for Annex III is partly in line with the amendments in the EP report.*
Annex III, 10	Domestic refrigerators and freezers that contain HFCs containing HFCs with GWP of 150 or more	Domestic refrigerators and freezers that contain HFCs containing HFCs ~~**with GWP of 150 or more**~~	*This will lead to a better incentive to develop climate neutral products and equipment and discourages the development of new low GWP HFCs. Non HFC alternatives are available.*
Annex III, 11, 13, 14 [Article 11]	… GWP of 2500 or more ..	… GWP of **2150** or more ..	*There are alternatives for products in the 2150-2500 range.This prevents the development of HFC's or mixtures in the 2150-2500 range.*
Annex III, 13 **addition**	New stationary refrigeration equipment that contains, or that relies upon for its functioning, HFCs with GWP of 2500 or more, except equipment intended for applications < -50°C. 1-January-2020	13b. New stationary refrigeration equipment that contains, or **that relies upon** for its functioning, HFCs, except equipment intended for applications < -50°C. Date of prohibition: 1-1-2025	*Signal to the market and an incentive for innovation.*

Annex III, 14 **addition**	New mobile refrigeration equipment that contains, or that relies upon for its functioning, HFCs with GWP of 2500 or more 1-January 2025	14b. New mobile refrigeration equipment that contains, or **that relies upon** for its functioning on HFCs, not intended for use < *50°C* Date of prohibition: 1-1-2030	*Signal to the market and an incentive for innovation. Addition of prohibition date for HFCs in mobile refrigeration equipment with (except equipment intended for applications < 50°C).*
Annex III, 3 **addition**	Fire protection equipment that contains HFC-23 Date of prohibition: 1-1-2015	Fire protection equipment that contains HFC-23 Date of prohibition: 1-1-2015 **Fire protection equipment that contains fluorinated gasses.** **Date of prohibition: 1-1-2017**	*Additional ban for F-gasses in fire protection equipment. There are good alternatives available for HFC-23, HFC 227ea and other F-gasses to ban F-gasses in 2017.*
Annex III, 16 **addition**	-	**Technical aerosols that contain HFC's** **Date of prohibition: 1-1-2020.**	*Good alternatives are available.*
Annex III, 17 **addition**	-	**17a.** **New airconditioning equipment that contains or that relies upon for it's functioning on HFC's with GWP 2150 or more with a charge size equivalent to 150 tonnes of CO2.** **Date of prohibition: 1-1-2025**	*This can be an important signal to the market and an incentive for innovation.*

Annex III, 18 **addition**	-	**18. XPS Foams containing fluorinated greenhouse gasses.** **Date of prohibition: 1-1-2020.**	*Alternatives are available. This proposal is based on amendment 50 in the EP report and the iompact assessment of the Commission.*
Annex III, 19 **Addition**	-	**Medium voltage secondary switchgear containing SF6.** **Date of prohibition 1-1-2020.**	*There are good alternatives available for these applications from several manufacturers.* *SF6 is a potent greenhouse gas (GWP 22.800). This proposal is in line with amendment 26 of the EP.*

Bold and marked text = addition; ~~text~~ = deleted text

Annex- Alternative for pre-charged equipment.

2 options for the legal text aiming to bringing HFCs imported in pre-charged equipment under the cap.
General approach is as follows:

- The baseline should be chosen in a way that it reflects a) growth in 2013-2015, due to HCFC phase out, and b) imported HFCs in pre-charged equipment. Therefore the baseline of 2008-2011 for the phase down steps should be increased by 15%, reflecting approximately 11% HFCs imported in products and equipment and HCFC banks, which are partly reflected in the baseline years (2008-2011) already.
- HFCs imported in pre-charged equipment should be included in the cap, therefore importers of products and equipmen containing HFCs should be allocated a quota.
- The quota allocation should include hermetically sealed products and equipment containing HFCs
- The mechanism for the quota allocation for importers of products and equipment containing HFCs should be based on the same principle as for newcomers that have not reported import or production in the baseline period. It should also take into account the increased baseline for the phase down with 15%.
- In order to account for importers of products and equipment containing HFCs, the mechanism for the quota allocation in Annex VI should set aside [15%][20%] for newcomers and importers of products and equipment containing HFCs.
- [similar to bulk gases, there should be a threshold for falling under the obligatory quota system for the total amount of HFCs imported in products and equipment annually, in order to limit the (administrative) burden]

Options 1 is preferred as the best feasible option.

Option 1.

Delete article 12 and include imported products and equipment containing HFCs in the quota system.

The text would read as follows:

Article 12

Pre-charging equipment

deleted

Article 13

Reduction of the placing on the market of hydrofluorocarbons

The Commission shall ensure that the quantity of hydrofluorocarbons that producers and importers**, including importers of products and equipment containing hydrofluorocarbons,** are entitled to place on the market in the Union each year does not exceed the maximum quantity for the year in question calculated in accordance with Annex V. Each producer and importer**, including each importer of products and equipment containing hydrofluorocarbons,** shall ensure that the quantity of hydrofluorocarbons calculated in accordance with Annex V that it places on the market does not exceed the quota allocated to it pursuant to Article 14(5) or transferred to it pursuant to Article 16.

[It shall not apply to producers or importers or importers of products and equipment ~~of~~ that place on the market in the Union less than 1 000 tonnes of CO_2 equivalent of hydrofluorocarbons per year.]

This Article shall not apply to **the following:**

a) hydrofluorocarbons imported into the Union for destruction;

b) hydrofluorocarbons supplied for use in feedstock applications;

c) hydrofluorocarbons supplied for direct export outside the Union;

d) hydrofluorocarbons supplied for repackaging and subsequent export outside the Union;

e) hydrofluorocarbons imported in equipment that contains a quantity of hydrofluorocarbons corresponding to less than 2% of the equipment's foreseen maximum capacity.

This Article and Articles 14, 16, 17 and 22 shall also apply to hydrofluorocarbons contained in polyol blends.

The Commission shall be empowered to adopt delegated acts in accordance with Article 20 amending the maximum quantities set out in Annex V in the light of developments of the market in hydrofluorocarbons and related emissions; and exempting the placing on the market for specific uses from the quota requirement laid down in paragraph 1 where the use of hydrofluorocarbons is necessary for health or safety reasons and a sufficient supply would otherwise not be ensured.

Article 14

Allocation of quotas for placing hydrofluorocarbons on the market

1. By 31 October 2014 the Commission shall determine, by means of implementing decisions, for each producer or importer having reported data under Article 6 of Regulation (EC) No 842/2006 a reference value based on the annual average of the quantities of hydrofluorocarbons the producer or importer reported to have ~~produced or imported~~ **placed on the market** from 2008 to 2011. ~~For the purposes of determining the reference value, no account shall be taken of quantities reported in excess of the quota.~~ The reference values shall be calculated in accordance with Annex V~~I~~ to this Regulation.

   Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21.

2. Producers and importers that have not reported ~~production or imports~~**placing on the market** under Article 6 of Regulation (EC) No 842/2006 for the reference period referred to in paragraph 1 **and importers of products and equipment containing hydrofluorocarbons** may declare their intention to ~~produce or import~~ **place** hydrofluorocarbons **or products and equipment containing hydrofluorocarbons** **on the market** in the following year.

   The declaration shall be addressed to the Commission, specifying the types of hydrofluorocarbons and the quantities that are expected to be placed on the market.

   The Commission shall issue a notice of the time limit for submitting those declarations. Before submitting a declaration pursuant to paragraphs 2 and 3, undertakings shall register in the registry provided for in Article 15.

3. By 31 October 2017 and every three years after that, the Commission shall recalculate the reference values for the producers and importers**, including importers of products and equipment containing hydrofluorocarbons** referred to in paragraphs 1 and 2 on the basis of the annual average of the quantities of hydrofluorocarbons produced or imported after 1 January 2015 as reported under Article 17. It shall determine those reference values by means of implementing acts.

   Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21.

4. Producers and importers**, including importers of products and equipment containing hydrofluorocarbons** for which reference values have been determined may declare additional anticipated quantities following the procedure set out in paragraph 2.

5. The Commission shall allocate quotas for placing hydrofluorocarbons on the market for each producer and importer **and importer of products and equipment containing hydrofluorocarbons** for each year beginning with the year 2015 applying the allocation mechanism laid down in Annex VI.

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 20 determining the mechanism to recalculate the reference values pursuant to paragraph 3 and amending or supplementing the mechanism for allocating quotas set out in Annex VI.

Article 15

Quota registry

1. **The Commission shall set up and ensure the operation of** an electronic registry for quotas for placing hydrofluorocarbons on the **market.** ~~market shall be established. The Commission shall take measures to set up and to ensure the operation of that electronic registry.~~

In the electronic registry **the following** shall be registered on request:

a) ~~**undertakings**~~ **producers and importers and importers of products and equipment containing hydrofluorocarbons** to which a quota for the placing on the market has been allocated in accordance with Article 14(5);

b) ~~**undertakings**~~ **producers and importers and importers of products and equipment containing hydrofluorocarbons** to which a quota is transferred in accordance with Article 16;

c) ~~**undertakings**~~ **producers and importers and importers of products and equipment containing hydrofluorocarbons** declaring their intention to submit a declaration pursuant to Article 14(2).

2. The Commission shall ensure that ~~**undertakings**~~ **the producers and importers and importers of products and equipment containing hydrofluorocarbons** ~~the competent authorities of the Member States~~ are informed via th**is**~~at~~ registry about the quota allocated and about any changes to it during the allocation period.

3. **The competent authorities of the Member States shall have access for information purposes to the registry with regard to those undertakings within their jurisdiction.**

Article 16

Transfer of quotas

Any producer or importer for whom a reference value has been determined pursuant to Article 14(1) or (3) and who has been allocated a quota in accordance with Article 14(5), may transfer that quota for all or any quantities **free of charge** to another undertaking in the Union that is registered in the registry referred to in Article 15(1). Any such transfer shall be notified in advance to the Commission.

Article 17

Reporting on production, import, export and destruction

1. By 31 March 2014 and every year after that, each producer, importer and exporter that produced, imported or exported more than ~~one metric tonne~~ or 1 000 tonnes of CO_2 equivalent of fluorinated greenhouse gases and gases listed in Annex II during the preceding calendar year shall report to the Commission the data specified in Annex VII on each of those substances for that calendar year.

2. By 31 March 2014 and every year after that, each undertaking that destroyed more than one metric tonne or 1 000 tonnes of CO_2 equivalent of fluorinated greenhouse gases and gases listed in Annex II during the preceding calendar year shall report to the Commission the data specified in Annex VII on each of those substances for that calendar year.

3. By 31 March 2014 and every year after that, each undertaking that ~~placed~~ **produced imported, or exported products and equipment containing** more than ~~10 000~~ **1000** tonnes of CO_2 equivalent of fluorinated greenhouse gases and gases listed in Annex II contained in products or equipment ~~on the market~~ during the preceding calendar year shall report to the Commission the data specified in Annex VII on each of those substances for that calendar year.

4. Each undertaking which, under paragraph 1 and 3, is to report on the placing on the market of more than 10 000 tonnes of CO_2 equivalent of hydrofluorocarbons during the preceding calendar year shall, **shall by 30 June 2014 and every year after that** ~~before the report is submitted~~, ensure that the accuracy of the data is verified by an independent auditor, accredited pursuant to Directive 2003/87/EC[5] or accredited to verify financial statements in accordance with the legislation of the Member State concerned.

   The undertaking shall keep the verification report for at least five years. The verification report shall be made available to the competent authority and the Commission on request.

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 20 amending the thresholds for the obligations provided for in paragraphs 1, 2 and 3 where appropriate, in view of the development of the market, to avoid that substantial quantities of fluorinated greenhouse gases produced, imported or exported are not monitored or to reduce administrative burdens in cases where the quantities reported are insignificant.

ANNEX V

Calculation of the maximum quantity, reference values and quotas for placing hydrofluorocarbons on the market.

The maximum quantity referred to in Article 13(1) shall be calculated by applying the following percentages to [**115% of**] the annual average of the total quantity produced and imported into the Union during the period from 2008 to 2011**, to account for hydrofluorocarbons imported in products and equipment containging hydrofluorocarbons and replacing hydrochlorofluorocarbons**:

[5] Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community, OJ L 275, 25.10.2003, p. 32.

Years	
2015	100 %
2016–17	93 %
2018–20	63 %
2021–23	45 %
2024–26	31 %
2027–29	24 %
2030	21 %

The maximum quantity, reference values and quotas for placing hydrofluorocarbons on the market referred to in Articles 13 and 14 shall be calculated as the aggregated quantities of all types of hydrofluorocarbons, expressed in tonne(s) of CO_2 equivalent.
The calculation of reference values and quotas for placing hydrofluorocarbons on the market referred to in Articles 13 and 14 shall be based on the quantities of hydrofluorocarbons producers and importers**, including importers of products and equipment containing hydrofluorocarbons** have placed on the market in the Union during an allocation period. Quantities transferred to an undertaking to be exported in the same allocation period, are not taken into account for calculating a quota or assessing compliance with Article 13(2), provided the export takes place during the same period and the exporter reports it in accordance with Article 17(1). The transaction must be verified in accordance with Article 17(4) regardless of the quantities involved.

ANNEX VI

Allocation mechanism referred to in Article 14

1. Determination of the quantity to be allocated to undertakings for which a reference value has been established under Article 14(1) and (3)

Each undertaking for which a reference value has been established receives a quota corresponding to ~~95 %~~ **[85%][80%]**of the reference value multiplied by **[115% and]** the percentage indicated in Annex V for the respective year.

2. Determination of the quantity to be allocated to undertakings that have submitted a declaration under Article 14(2)

The sum of the quotas allocated under point 1 is subtracted from the maximum quantity for the given year set out in Annex V to determine the quantity to be allocated to undertakings for which no reference value has been established and which have submitted a declaration under Article 14(3) (quantity to be allocated in step 1 of the calculation).

2.1. **Step 1** of the calculation

Each undertaking receives an allocation corresponding to the quantity requested in its declaration, but no more than a pro-rata share of the quantity to be allocated in step 1.
The pro-rata share is calculated by dividing 100 by the number of undertakings that have submitted a declaration. The sum of the quotas allocated in step 1 is subtracted from the quantity to be allocated in step 1 to determine the quantity to be allocated in step 2.

2.2. **Step 2** of the calculation

Each undertaking that has not obtained 100 % of the quantity requested in its declaration in step 1 receives an additional allocation corresponding to the difference between the quantity requested and the quantity obtained in step 1. However, this must not exceed the pro-rata share of the quantity to be allocated in step 2.
The pro-rata share is calculated by dividing 100 by the number of undertakings eligible for an allocation in step 2. The sum of the quotas allocated in step 2 is subtracted from the quantity to be allocated in step 2 to determine the quantity to be allocated in step 3.

2.3. **Step 3** of the calculation

Step 2 is repeated until the remaining quantity to be allocated in the next phase is less than 1 000 tonnes of CO_2 equivalent.

3. Determination of the quantity to be allocated to undertakings that have submitted a declaration under Article 13(4)

The sum of the quotas allocated under points 1 and 2 is subtracted from the maximum quantity for the given year set out in Annex V to determine the quantity to be allocated to undertakings for which a reference value has been established and that have submitted a declaration under Article 14(4).
The allocation mechanism set out under points 2.1 and 2.2 applies.

Art.	Presidency Text	Amendment	Justification
12.1	From [dd/mm/yyyy] [*insert date 3 years after entry into force of this regulation*], refrigeration, air-conditioning and heat pump equipment shall not be charged with hydrofluorocarbons before it is placed on the market or before it is made available to the end-user for its first installation. The equipment shall be charged where it is intended to be used, by persons certified in accordance with Article 8.	**delete**	*The Netherlands has strong reservations against the proposal to ban pre-charged equipment. The proposal would:* *a) impose problems for manufacturers to accept liability related to the quality of their product, since they will not be able to control the proper filling of the equipment.* *b) reduce costs to change the production lines and practices* *c)increase refrigerant waste streams considerably and related emissions* *d)impose problems of enforcement of the provision.* *In line with previous comments The Netherlands position is that pre-charged equipment should be brought under the cap, to protect the integrity of the phase down schedule. Article 13-15 therefore should include importers of pre-charged equipment as well as Articles 16 and 17.*

			Furthermore Annexes V and VI should be adapted to reflect import of pre-charged equipment being brought under the quota system. *Bringing all HFCs under the quota system would create a level playing field for EU and non-EU companies, wishing to place on the market products and equipment containing HFCs.* *Importing companies could either apply for quota for placing on the market imported pre-charged equipment, or pre-charge the imported equipment with HFCs that fall under the cap in the EU.*

12.2	Paragraph 1 shall not apply to hermetically sealed equipment or to equipment that contains a quantity of hydrofluorocarbons corresponding to less than 2% of the equipment's foreseen maximum capacity.	**delete and move exemption for equipment that contains a quantity of hydrofluorocarbons corresponding to less than 2% of the equipment's foreseen maximum capacity to article 13.2**	*In principle, the cap should also include hermetically sealed equipment, but the proposed exemption for equipment that contains a quantity of hydrofluorocarbons corresponding to less than 2% of the equipment's foreseen maximum capacity is acceptable.* *The Netherlands therefore proposes to delete the exemption for hermetically sealed equipment (i.e. to include hermetically sealed equipment under the quota system in articles 13-15) and move the exemption for equipment that contains a quantity of hydrofluorocarbons corresponding to less than 2% of the equipment's foreseen maximum capacity to article 13.2*

13.1	The Commission shall ensure that the quantity of hydrofluorocarbons that producers and importers are entitled to place on the market in the Union each year does not exceed the maximum quantity for the year in question calculated in accordance with Annex V. Each producer and importer shall ensure that the quantity of hydrofluorocarbons calculated in accordance with Annex V that it places on the market does not exceed the quota allocated to it pursuant to Article 14(5) or transferred to it pursuant to Article 16. **It shall not apply to producers or importers of less than 1 000 tonnes of CO_2 equivalent of hydrofluorocarbons per year.**	The Commission shall ensure that the quantity of hydrofluorocarbons that producers and importers**, including importers of products and equipment containing hydrofluorocarbons,** are entitled to place on the market in the Union each year does not exceed the maximum quantity for the year in question calculated in accordance with Annex V. Each producer and importer**, including each importer of products and equipment containing hydrofluorocarbons,** shall ensure that the quantity of hydrofluorocarbons calculated in accordance with Annex V that it places on the market does not exceed the quota allocated to it pursuant to Article 14(5) or transferred to it pursuant to Article 16. **[It shall not apply to producers or importers or importers of products and equipment ~~of~~ that place on the market in the Union less than 1 000 tonnes of CO_2 equivalent of hydrofluorocarbons per year.]**	*In line with the principle of bringing the HFCs imported in products and equipment containing HFCs under the quota system, article 13.1 should explicitly refer to those importers as well.* *Equally importers of products and equipment containing HFCs should ensure that the quantity of HFCs are not exceeding the allocated quota.* *[The threshold for falling under the quota system for placing on the market HFCs in the Union should apply equally to HFCs imported in products and equipment]*

13.2	This Article shall not apply to **the following:** **a) hydrofluorocarbons imported into the Union for destruction;** **b) hydrofluorocarbons supplied for use in feedstock applications;** **c) hydrofluorocarbons supplied for direct export outside the Union;** **d) hydrofluorocarbons supplied for repackaging and subsequent export outside the Union.**	This Article shall not apply to **the following:** **a) hydrofluorocarbons imported into the Union for destruction;** **b) hydrofluorocarbons supplied for use in feedstock applications;** **c) hydrofluorocarbons supplied for direct export outside the Union;** **d) hydrofluorocarbons supplied for repackaging and subsequent export outside the Union;** e) **hydrofluorocarbons imported in equipment that contains a quantity of hydrofluorocarbons corresponding to less than 2% of the equipment's foreseen maximum capacity.**	*The quota provisions shall not apply to importers of equipment that contains a quantity of hydrofluorocarbons corresponding to less than 2% of the equipment's foreseen maximum capacity*

14.1	By 31 October 2014 the Commission shall determine, by means of implementing decisions, for each producer or importer having reported data under Article 6 of Regulation (EC) No 842/2006 a reference value based on the annual average of the quantities of hydrofluorocarbons the producer or importer reported to have ~~produced or imported~~ **placed on the market** from 2008 to 2011. ~~For the purposes of determining the reference value, no account shall be taken of quantities reported in excess of the quota.~~ The reference values shall be calculated in accordance with Annex V~~I~~ to this Regulation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21.	By 31 October 2014 the Commission shall determine, by means of implementing decisions, for each producer or importer having reported data under Article 6 of Regulation (EC) No 842/2006 a reference value based on the annual average of the quantities of hydrofluorocarbons the producer or importer reported to have ~~produced or imported~~ **placed on the market** from 2008 to 2011. ~~For the purposes of determining the reference value, no account shall be taken of quantities reported in excess of the quota.~~ The reference values shall be calculated in accordance with Annex V~~I~~ to this Regulation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21.	Setting the baseline, check: 2008-2011 baseline is 1% hoger dan 2009-2011. 2008-2011 is 3% lager dan 2008-2010. 2012 is naar verwachting relatief laag. Wrschlk 2009-2012 ca 1% lager dan 2008-2011. Dan 2010-2012 ongeveer gelijk aan 2008-2011. Kortom: 2008-2011 wel oké.

14.2	Producers and importers that have not reported ~~production or imports~~**placing on the market** under Article 6 of Regulation (EC) No 842/2006 for the reference period referred to in paragraph 1 may declare their intention to ~~produce or import~~ **place** hydrofluorocarbons **on the market** in the following year. The declaration shall be addressed to the Commission, specifying the types of hydrofluorocarbons and the quantities that are expected to be placed on the market. The Commission shall issue a notice of the time limit for submitting those declarations. Before submitting a declaration pursuant to paragraphs 2 and 3, undertakings shall register in the registry provided for in Article 15.	Producers and importers that have not reported ~~production or imports~~**placing on the market** under Article 6 of Regulation (EC) No 842/2006 for the reference period referred to in paragraph 1 **and importers of products and equipment containing hydrofluorocarbons** may declare their intention to ~~produce or import~~ **place** hydrofluorocarbons **or products and equipment containing hydrofluorocarbons on the market** in the following year. The declaration shall be addressed to the Commission, specifying the types of hydrofluorocarbons and the quantities that are expected to be placed on the market. The Commission shall issue a notice of the time limit for submitting those declarations. Before submitting a declaration pursuant to paragraphs 2 and 3, undertakings shall register in the registry provided for in Article 15.	*Similar to newcomers, importers of products and equipment containing HFCs should be allowed to declare their interest to place their products and equipment containing HFCs on the market.*

14.3	By 31 October 2017 and every three years after that, the Commission shall recalculate the reference values for the producers and importers referred to in paragraphs 1 and 2 on the basis of the annual average of the quantities of hydrofluorocarbons produced or imported after 1 January 2015 as reported under Article 17. It shall determine those reference values by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21.	By 31 October 2017 and every three years after that, the Commission shall recalculate the reference values for the producers and importers**, including importers of products and equipment containing hydrofluorocarbons** referred to in paragraphs 1 and 2 on the basis of the annual average of the quantities of hydrofluorocarbons produced or imported after 1 January 2015 as reported under Article 17. It shall determine those reference values by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21.	*The text should reflect also importers of products and equipment containing HFCs.*
14.4	Producers and importers for which reference values have been determined may declare additional anticipated quantities following the procedure set out in paragraph 2.	Producers and importers**, including importers of products and equipment containing hydrofluorocarbons** for which reference values have been determined may declare additional anticipated quantities following the procedure set out in paragraph 2.	*The text should reflect also importers of products and equipment containing HFCs.*
14.5	The Commission shall allocate quotas for placing hydrofluorocarbons on the market for each producer and importer for each year beginning with the year 2015 applying the allocation mechanism laid down in Annex VI.	The Commission shall allocate quotas for placing hydrofluorocarbons on the market for each producer and importer **and importer of products and equipment containing hydrofluorocarbons** for each year beginning with the year 2015 applying the allocation mechanism laid down in Annex VI.	*The text should reflect also importers of products and equipment containing HFCs.*

15.1	**The Commission shall set up and ensure the operation of** an electronic registry for quotas for placing hydrofluorocarbons on the **market.** ~~market shall be established. The Commission shall take measures to set up and to ensure the operation of that electronic registry.~~ In the electronic registry **the following** shall be registered on request: a) **undertakings** ~~producers and importers~~ to which a quota for the placing on the market has been allocated in accordance with Article 14(5); b) **undertakings** ~~producers and importers~~ to which a quota is transferred in accordance with Article 16; c) **undertakings** ~~producers and importers~~ declaring their intention to submit a declaration pursuant to Article 14(2).	**The Commission shall set up and ensure the operation of** an electronic registry for quotas for placing hydrofluorocarbons on the **market.** ~~market shall be established. The Commission shall take measures to set up and to ensure the operation of that electronic registry.~~ In the electronic registry **the following** shall be registered on request: a) ~~**undertakings**~~ **producers and importers and importers of products and equipment containing hydrofluorocarbons** to which a quota for the placing on the market has been allocated in accordance with Article 14(5); b) ~~**undertakings**~~ **producers and importers and importers of products and equipment containing hydrofluorocarbons** to which a quota is transferred in accordance with Article 16;	*Given the broad definition of undertaking, The Netherlands believes that the quota registry should be limited to the relevant producers and importers, including importers of products and equipment containing HFCs.*

		c) ~~undertakings~~ **producers and importers and importers of products and equipment containing hydrofluorocarbons** declaring their intention to submit a declaration pursuant to Article 14(2).	
15.2	The Commission shall ensure that **undertakings** ~~the producers and importers and the competent authorities of the Member States~~ are informed via th**is**~~at~~ registry about the quota allocated and about any changes to it during the allocation period.	The Commission shall ensure that ~~undertakings~~ **the producers and importers and importers of products and equipment containing hydrofluorocarbons** ~~the competent authorities of the Member States~~ are informed via th**is**~~at~~ registry about the quota allocated and about any changes to it during the allocation period.	
16	Any producer or importer for whom a reference value has been determined pursuant to Article 14(1) or (3) and who has been allocated a quota in accordance with Article 14(5), may transfer that quota for all or any quantities to another undertaking in the Union that is registered in the registry referred to in Article 15(1). Any such transfer shall be notified in advance to the Commission.	Any producer or importer for whom a reference value has been determined pursuant to Article 14(1) or (3) and who has been allocated a quota in accordance with Article 14(5), may transfer that quota for all or any quantities **free of charge** to another undertaking in the Union that is registered in the registry referred to in Article 15(1). Any such transfer shall be notified in advance to the Commission.	*The quota system is meant to regulate the quantities of HFCs placed on the market in the Union. It is not meant to be a market instrument to trade in quota, allowing companies or specific sectors to make windfall profits as a consequence of introducing the quota system. Therefore the transfer of quota should be free of charge.*

17.3	By 31 March 2014 and every year after that, each undertaking that placed more than 10 000 tonnes of CO_2 equivalent of fluorinated greenhouse gases and gases listed in Annex II contained in products or equipment on the market during the preceding calendar year shall report to the Commission the data specified in Annex VII on each of those substances for that calendar year.	By 31 March 2014 and every year after that, each undertaking that ~~placed~~ **produced imported, or exported products and equipment containing** more than ~~10 000~~ **1000** tonnes of CO_2 equivalent of fluorinated greenhouse gases and gases listed in Annex II contained in products or equipment ~~on the market~~ during the preceding calendar year shall report to the Commission the data specified in Annex VII on each of those substances for that calendar year.	*Given the fact that products and equipment are proposed to fall under the quota system, the same threshold should apply to reporting on products and equipment containing F-gases. Furthermore, distinction should be made between production, import and export in order to be provided with sufficient details to analyze effectiveness of the regulation.*

Annex V Para 1 and para 3	The maximum quantity referred to in Article 13(1) shall be calculated by applying the following percentages to the annual average of the total quantity produced and imported into the Union during the period from 2008 to 2011: The calculation of reference values and quotas for placing hydrofluorocarbons on the market referred to in Articles 13 and 14 shall be based on the quantities of hydrofluorocarbons producers and importers have placed on the market in the Union during an allocation period.	The maximum quantity referred to in Article 13(1) shall be calculated by applying the following percentages to **[115% of]** the annual average of the total quantity produced and imported into the Union during the period from 2008 to 2011**, to account for hydrofluorocarbons imported in products and equipment containing hydrofluorocarbons and replacing hydrochlorofluorocarbons**: The calculation of reference values and quotas for placing hydrofluorocarbons on the market referred to in Articles 13 and 14 shall be based on the quantities of hydrofluorocarbons producers and importers**, including importers of products and equipment containing hydrofluorocarbons** have placed on the market in the Union during an allocation period.	*In order to include importers of products and equipment containing HFCs under the quota system, the baseline should be increased. A slight increase is also necessary to account for replacement of HCFCs. The proposed 115% increase accounts for approximately 11% HFCs placed on the market in imported products and equipment, as reported by the Commission and a slight increase to account for HCFC replacements, which were partly reflected already in the baseline period.*

Annex VI	1. Determination of the quantity to be allocated to undertakings for which a reference value has been established under Article 14(1) and (3) Each undertaking for which a reference value has been established receives a quota corresponding to 95 % of the reference value multiplied by the percentage indicated in Annex V for the respective year.	1. Determination of the quantity to be allocated to undertakings for which a reference value has been established under Article 14(1) and (3) Each undertaking for which a reference value has been established receives a quota corresponding to ~~95 %~~ **[85%][80%]**of the reference value multiplied by **[115% and]** the percentage indicated in Annex V for the respective year.	*In order to account for importers of products and equipment containing HFCs, the set aside for the quota allocation for newcomers should be raised from 5% to [15][20]%.* *In order to take account for increasing the baseline for the phase down schedule by 15%, the reference value for allocating quota should be increased as well.*

Option 2:

Article 12 requires importers of products and equipment containing HFCs to register as proposed by EPEE and include imported products and equipment containing HFCs in the quota system.
The text would read as follows:

Article 12

Pre-charging equipment

~~1.~~ From [dd/mm/yyyy] [~~*insert date 3 years after entry into force of this regulation*~~], ~~refrigeration, air-conditioning and heat pump equipment shall not be charged with hydrofluorocarbons before it is placed on the market or before it is made available to the end-user for its first installation.~~
~~The equipment shall be charged where it is intended to be used, by persons certified in accordance with Article 8~~ **products and equipment containing hydrofluorocarbons shall not be imported in the Union, unless the importer is registered in accordance with Article 15.**

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1. Paragraph 1 shall not apply to ~~hermetically sealed equipment or to~~ equipment that contains a quantity of hydrofluorocarbons corresponding to less than 2 % of the equipment's foreseen maximum capacity

Article 13

Reduction of the placing on the market of hydrofluorocarbons

1. The Commission shall ensure that the quantity of hydrofluorocarbons that producers and importers**, including importers of products and equipment containing hydrofluorocarbons,** are entitled to place on the market in the Union each year does not exceed the maximum quantity for the year in question calculated in accordance with Annex V. Each producer and importer**, including each importer of products and equipment containing hydrofluorocarbons,** shall ensure that the quantity of hydrofluorocarbons calculated in accordance with Annex V that it places on the market does not exceed the quota allocated to it pursuant to Article 14(5) or transferred to it pursuant to Article 16.

   [It shall not apply to producers or importers or importers of products and equipment ~~of~~ that place on the market in the Union less than 1 000 tonnes of CO_2 equivalent of hydrofluorocarbons per year.]

2. This Article shall not apply to **the following:**

   a) hydrofluorocarbons imported into the Union for destruction;
   b) hydrofluorocarbons supplied for use in feedstock applications;
   c) hydrofluorocarbons supplied for direct export outside the Union;
   d) hydrofluorocarbons supplied for repackaging and subsequent export outside the Union.

3. This Article and Articles 14, 16, 17 and 22 shall also apply to hydrofluorocarbons contained in polyol blends.

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 20 amending the maximum quantities set out in Annex V in the light of developments of the market in hydrofluorocarbons and related emissions; and exempting the placing on the market for specific uses from the quota requirement laid down in paragraph 1 where the use of hydrofluorocarbons is necessary for health or safety reasons and a sufficient supply would otherwise not be ensured.

Articles 14- 17 + ANNEXES V + VI, the same as under option 1

Art.	Presidency Text	Amendment	Justification
12.1	From [dd/mm/yyyy] [*insert date 3 years after entry into force of this regulation*], refrigeration, air-conditioning and heat pump equipment shall not be charged with hydrofluorocarbons before it is placed on the market or before it is made available to the end-user for its first installation. The equipment shall be charged where it is intended to be used, by persons certified in accordance with Article 8.	From [dd/mm/yyyy] ~~[*insert date 3 years after entry into force of this regulation*], refrigeration, air-conditioning and heat pump equipment shall not be charged with hydrofluorocarbons before it is placed on the market or before it is made available to the end-user for its first installation.~~ ~~The equipment shall be charged where it is intended to be used, by persons certified in accordance with Article 8~~ **products and equipment containing hydrofluorocarbons shall not be imported in the Union, unless the importer is registered in accordance with Article 15.**	*The Netherlands has strong reservations against the proposal to ban pre-charged equipment. The proposal would:* *a) impose problems for manufacturers to accept liability related to the quality of their product, since they will not be able to control the proper filling of the equipment.* *b) reduce costs to change the production lines and practices* *c)increase refrigerant waste streams considerably and related emissions* *d)impose problems of enforcement of the provision.*

			In line with previous comments The Netherlands position is that pre-charged equipment should be brought under the cap, to protect the integrity of the phase down schedule. Article 13-15 therefore should include importers of pre-charged equipment as well as Articles 16 and 17. *Furthermore Annexes V and VI should be adapted to reflect import of pre-charged equipment being brought under the quota system.*
12.2	Paragraph 1 shall not apply to hermetically sealed equipment or to equipment that contains a quantity of hydrofluorocarbons corresponding to less than 2% of the equipment's foreseen maximum capacity.	Paragraph 1 shall not apply to ~~hermetically sealed equipment or to~~ equipment that contains a quantity of hydrofluorocarbons corresponding to less than 2% of the equipment's foreseen maximum capacity.	*In principle, the cap should also include hermetically sealed equipment, but the proposed exemption for equipment that contains a quantity of hydrofluorocarbons corresponding to less than 2% of the equipment's foreseen maximum capacity is acceptable.*

			Bringing all HFCs under the quota system would create a level playing field for EU and non-EU companies, wishing to place on the market products and equipment containing HFCs. Importing companies could either apply for quota for placing on the market imported pre-charged equipment, or pre-charge the imported equipment with HFCs that fall under the cap in the EU. *Importers of products and equipment containing HFCs should register as suggested by EPEE.* *Ideally a similar pre-condition should also apply to producers and importers placing on the market HFCs, as far as this pre-condition is not clearly following from articles 13-15.*

13.1	The Commission shall ensure that the quantity of hydrofluorocarbons that producers and importers are entitled to place on the market in the Union each year does not exceed the maximum quantity for the year in question calculated in accordance with Annex V. Each producer and importer shall ensure that the quantity of hydrofluorocarbons calculated in accordance with Annex V that it places on the market does not exceed the quota allocated to it pursuant to Article 14(5) or transferred to it pursuant to Article 16. **It shall not apply to producers or importers of less than 1 000 tonnes of CO_2 equivalent of hydrofluorocarbons per year.**	The Commission shall ensure that the quantity of hydrofluorocarbons that producers and importers**, including importers of products and equipment containing hydrofluorocarbons,** are entitled to place on the market in the Union each year does not exceed the maximum quantity for the year in question calculated in accordance with Annex V. Each producer and importer**, including each importer of products and equipment containing hydrofluorocarbons,** shall ensure that the quantity of hydrofluorocarbons calculated in accordance with Annex V that it places on the market does not exceed the quota allocated to it pursuant to Article 14(5) or transferred to it pursuant to Article 16. **[It shall not apply to producers or importers or importers of products and equipment ~~of~~ that place on the market in the Union less than 1 000 tonnes of CO_2 equivalent of hydrofluorocarbons per year.]**	*In line with the principle of bringing the HFCs imported in products and equipment containing HFCs under the quota system, article 13.1 should explicitly refer to those importers as well.* *Equally importers of products and equipment containing HFCs should ensure that the quantity of HFCs are not exceeding the allocated quota.* *[The threshold for falling under the quota system for placing on the market HFCs in the Union should apply equally to HFCs imported in products and equipment]*

13.2	This Article shall not apply to **the following:** **a) hydrofluorocarbons imported into the Union for destruction;** **b) hydrofluorocarbons supplied for use in feedstock applications;** **c) hydrofluorocarbons supplied for direct export outside the Union;** **d) hydrofluorocarbons supplied for repackaging and subsequent export outside the Union.**	This Article shall not apply to **the following:** **a) hydrofluorocarbons imported into the Union for destruction;** **b) hydrofluorocarbons supplied for use in feedstock applications;** **c) hydrofluorocarbons supplied for direct export outside the Union;** d) **hydrofluorocarbons supplied for repackaging and subsequent export outside the Union.**	*The quota provisions shall not apply to importers of equipment that contains a quantity of hydrofluorocarbons corresponding to less than 2% of the equipment's foreseen maximum capacity*
Art. 14-17 + annex V+VI			**As option 1**

AUSTRIA

We thank the Presidency for their efforts in relation to improving the F-gas regulation and to address our concerns.

Art. 1- Definitions
Para 8: We think that the definition now reflects more adequately the real situation of owners and operators. However, we could also accept taking over the whole definition of Regulation 842/2006 in order to cover all possible options.
Para 24: We believe that it is not necessary to define "undertaking", because it may not be adequate or possible to list all the potential activities of undertakings. In order to avoid legal uncertainties, we therefore would propose to delete this paragraph.
In our opinion it would be necessary to add the following new definition to the text.
„Mobile air conditioning" should be defined so as to clarify which types of mobile equipments (e.g.: cars, lorries, trains, buses etc) are covered by this Regulation. Leaving the term completely open (e.g. to the ship, aircraft and railway sectors) would cause problems because in-house training and education may play an important role and in some areas **no centralised qualification system has been and will be established**. Most likely it will not be possible in the future to establish separate education and qualification schemes for very specialised sectors where mainly the companies organise in-house training.
Art. 2 – Prevention of emissions (c.f. comments on Art. 8)**:**
General remark: The whole substance of the existing Commission Regulations relating to certification and qualification should be maintained within the new system, since they have been in force for a relatively short period, and legal security is crucial for personnel, companies and for enforcing authorities. We believe that it would place disproportionate burden on enterprises and authorities to change the system already at this moment in time (administrative and financial burden for economic operators, authorities and enforcement bodies without significant added value for environmental protection).

Paragraph 3: We believe that it may be difficult to comply with a time limit of 14 days for repair of equipment when leakage has been detected, at least in special circumstances. Therefore, we prefer the Commission text "without undue delay".
Paragraph 4 - Certification of undertakings: We think that no additional certification requirements for garages should be introduced. First, this would affect an unproportionate number of such undertakings, and second, no additional benefit in certifying all those smaller undertakings is evident. In addition, this would create a lot of additional administrative burden and cost for the certifying authorities.
The garages could be exempted from the obligation to be certified, e.g. by a modification like this: *"Undertakings carrying out the activities mentioned in Article 8(1) (a), (b) and (c), for other parties, …"*

Art 3:

General remark: We are still not in favour of a general change from "kg" to CO_2 equivalents . From our view it is very important that the inspectors have access to a number which is evident from the labelled equipment and which is clear and transparent, and gives them legal security. This may be done by a list including all the relevant F gases and mixtures together with their GWP. It would also be useful to introduce an adequate transitional period.

After having consulted with stakeholders, we would like to propose to **delete the new paragraph 1 (f) (electrical switchgear)**, since especially for small applications this obligation may be disproportionate and the functioning of such equipment relies on perfect tightness which means that under normal use conditions there will be no leakage.

However, we can support other changes proposed by the Presidency since many of our earlier comments are now reflected in the text.

Art. 4:

Paragraph 1: We propose that the addition of a time limit in square brackets should be checked again because in relation to Regulation 842/2006 there has been already an obligation to install leakage detection systems for large equipment. However, for **existing** equipment containing less than 300 kg of an F gas this should be obligatory from 1 January 2017 (an adequate transition period will be necessary).

This problem may be solved by leaving the first sentence as it was originally proposed by the Commission (without the wording "by 1 January 2017"), with the following addition of a new paragraph 2:
"2. By way of derogation, paragraph 1 shall apply from [1 January 2007] for equipment installed before entry into force of this Regulation and containing less than 300 kg of a fluorinated greenhouse gas."

Art. 5:
We can agree with the changes in the Presidency text, under the condition that the relevant exemptions under Article 3(1) will be maintained.

Art. 6:
We welcome the requirements in general since addressing HFC-23 is of global significance. Studies have shown that emissions of HFC-23 from manufacturing processes play a very important role for overall emissions of F gases.
However, we would prefer the following slight change in the wording of the presidency text:
"Those producers shall ensure that trifluoromethane (HFC-23) produced as a by-product ***is destroyed as part of the manufacturing process*** *in line with best available techniques."*
This minor change should ensure that HFC-23 has to be destroyed on site and may not be isolated. This is to ensure that BAT is adequately implemented and that no loophole is created for marketing/export of HFC-23.

Art. 7:
Although we support in principle the intention of this Article, we would like to point out that we are not convinced that a considerable extension of certification requirements for the recovery of F-gases is a useful tool. This is the case especially for mobile equipment where we are **not ready to accept a general certification requirement for all garages**. Especially in the mobile sector, it should be sufficient if the personnel had acquired the necessary knowledge / training (see the comments on Art. 8).
Art. 8:
We think that technologies for the substitution or reduction of F-gases go - partially - beyond the current national qualification requirements for the refrigeration sector. It is not the responsibility of the personnel which technologies are used by their company.

Paragraph 1: We prefer the original Commission text for the first sentence – since the wording "evaluation processes" seems to be rather unclear and leaves some room for interpretation.

Paragraph 3: Here also we would prefer the original text (see paragraph 1).

In **paragraph 4**, we again would like to mention that a certification of all garages would be disproportionate, costly and inappropriate from the administrative point of view, and therefore lit (d) should be removed.

We appreciate the change in the text of **paragraph 5** which enables the holders of existing certificates to use them in the future and not to undergo obligatory training every 5 years.

However, the proposed **para 5 bis** seems to be not clear enough in relation to the "evaluation process". It has to be clear that this process should not be including an "examination". In Austria, there is a very well organised education and training system, and when somebody has finished the programme and received an attestation, he has the right to work with the relevant equipment and installations. Since it is not evident, why personnel installing and servicing HFC equipment (e.g. with GWP<2500) should be trained on ammonia or hydrocarbon equipment, we believe that it will be sufficient that personnel is generally informed about the hazards of such refrigerants. If a company installs or repairs such equipment with "natural refrigerants", they have to take care and are responsible anyway that their personnel is very well trained, but this cannot be justified for the vast majority who (will) probably work only with HFC refrigerants (in the future).
Our proposal for 5.bis is as follows: *"By no later than 1 January 2020, all persons holding certificates referred to in paragraph 5 shall have acquired knowledge in relation to technologies referred to paragraph 2, point (e)."*.

Article 9 (2)

We are not in favour of paragraph 2 relating to the ecodesign requirements – this provision may present a loophole since manufacturers may determine whether the exemption applies to them or not.
However, as an alternative it would be more adequate to introduce a **case by case** exemption where the manufacturer would have to prove that in a special case that exemption is justified. The justification has to be corroborated by a detailed assessment and calculations of the overall energy consumption of two systems compared to each other.

Article 9(4)
Referring to our position that garages should not be subject to company certification, we would like to suggest to exempt the garages from this paragraph.
This could be done by substituting the wording "Article 8(1) (a) to (d)" by the wording "Article 8(1) (a) to (c)".

Another option would be: "… shall only be sold to and purchased by undertakings **or** persons that hold the relevant certificates …".

Annex III:

The modifications of the Annex foreseen by the Commission are supported.

However, AT would have preferred more ambitious phaseout schedules:

1. **Foams** – as has been shown in Austria, F-gases can be substituted nearly in all applications including PU and XPS foams, a general ban from 2015 for all HFCs would contribute significantly to the reduction of emissions in the future.
2. **Technical aerosols** are regulated in Austria, there is just one exemption for maintenance of electronic and electric equipment, and the possibility for an exemption on a case-by-case basis.

Article 10 – Labelling and product information

We propose to exempt only **medicinal products** (primarily medical dose inhalers) from labelling, since we are dealing with very small amounts per inhaler. On the other hand, not all "medical applications" should be exempted, which may even include an air conditioning installation etc..

Article 11 – Control of use

Paragraph 1: We received information that a total ban of SF_6 from 1 January 2015 may be problematic for small or medium magnesium die-casting companies. In this regard, we support the proposal of Germany to set a limit of 425 kg instead of 850 kg (Regulation 842/2006) with a transition period until the end of 2017.

In relation to **paragraph 3**, the Commission has pointed out that drop-in refrigerants are available. Nevertheless, we have to mention that expensive adaptations or even changing the equipment before its end-of–life is of concern for our economic operators. However, for operators of small and very low temperature equipment the changes proposed by the Presidency may be an acceptable way in the right direction (lower limit of 40 tonnes of CO_2 equivalent and exemption for applications < -50°C), but it should be checked whether the 40 tonnes threshold is sufficient or could be increased (up to around 80 tonnes CO_2 equivalent) in order to minimize the burden for SMEs.

Article 12 – Pre-charging of equipment
Taking into account the information contained in the non-paper produced by the Commission, we think that in principle option 3 will be a feasible way to achieve the goals of the Regulation.

Article 17 – Reporting

We maintain a negative scrutiny reservation for paragraph 4 because a verification system would result in additional burden for the undertakings. We are not convinced that this verification procedure would improve the system significantly and would like to point out that under the Ozone Regulation 1005/2009 no such verification exists.

Article 18 – Collection of emissions data

Although we understand that emission data are of importance, we were not in favour of the new Article 18, because this would probably create significant additional administrative burden.

As a compromise however, we could accept the proposal by NL and other Member States to take over the wording from Art. 6(4) of Regulation 842/2006. This would enable Member States to choose the system which is most suitable for their individual situation, and to maintain their existing data collection system. It is a very important point for AT that the MS are free to decide which system they use for collecting emission data.

Article 19

From our point of view, the second sentence of paragraph 3 should not be deleted, since the availability of HFCs is of high relevance for maintenance of various applications where no alternative is available on the market.

Article 20 – Exercise of delegation

AT has doubts on the extensive use of "delegated acts" in the proposal. In our view. amendments of bans and restrictions, or of labelling requirements are "essential" elements of the text – art. 9(3), 10(7), 18(3)). In those cases, the use of delegated acts is questionable and we have to maintain a scrutiny reservation on this item.

Article 23 - Repeal

We are in favour of the presidency proposal to mention the existing implementing regulations. In addition, we think it would be useful to mention the Regulations 1493/2007 and 1494/2007 in order to guarantee an adequate transition (period) to the new system. Our opinion is that as many regulations as possible should be taken over under the new legislation.

POLAND

1. General comments

1. We wish to thank the Presidency for taking into account in the Compromise Text some of our comments made to the original Commission Proposal. This relates mostly to the inconsistencies we found in the Commission Proposal, specifically with regard to definitions of F-gases. In our view the new definitions of F-gases, HFCs, PFCs and SF_6 proposed in the Compromise text are fully consistent with our suggestions and therefore we strongly support those changes. However, those changes of definitions have not been taken into account everywhere in the Compromise Text – e.g. the references to mixtures were left in art. 9 and 11. In our detailed comments we will propose how to deal with that problem. We are also grateful to the Presidency for taking into account in the Compromise Text our comments related to inconsistent use of the words "products", "equipment", "systems" and "fire extinguishers" in the Commission Proposal, and for defining the "fire protection equipment" in art. 1.

2. We noted that our comments related to the HFC phase down schedule in Annex V and to moving forward the dates of certain bans in art. 11 and in Annex III had not been taken into account in the Compromise Text. We will then repeat those comments with some further explanation in our detailed comments. Since the general ban on POM of pre-charged equipment has been retained in the Compromise Text we wish to retain our reservation regarding art. 12, but we are open for further discussion.

3. We also noted that in spite of negative opinion of the great majority of MSs the Commission's right to issue delegated acts remained in the Compromise Text. Our concerns in that regard are still valid, in particular regarding the key provisions like e.g. the POM bans in Annex III. In our detailed comments we will provide you with our position regarding delegated acts with regard to each of the provisions where such acts have been proposed.

4. We wish to note that the Presidency is now suggesting removal of the whole art. 18 which concerns collection of data related to F-gas emissions. In our view removal of that article as a whole cannot be called a "compromise solution" since there were also other MSs who supported our position regarding that article. We retain our opinion that the issue of data collection is very important since the MSs should be provided with the opportunity of obtaining data on the use of F-gases on their territory and of assessment of the actual emission of those gases. In our detailed comments we will propose a new, shortened version of art. 18 that – in our view – would be acceptable for all MSs.

5. We understand that the Preamble will be corrected at a later stage of the negotiations in the Council, so we do not present our comments now.

2. Detailed comments

Article	PL comments
Art. 1	- We support changes made to the definition of F-gases and to the definition of GWP, following our earlier comments - We support new definitions of "HFCs", "PFCs", "SF_6", "mixture", "container", "non-refillable container", "mobile", "equipment sealed upon installation", "commercial use", "leakage detection system", "feedstock" and "fire protection equipment" - We support changes to definitions of "operator", "use", "hermetically sealed equipment" and "stationary" - We support introduction of definition of "undertaking", but the definition should be amended as presented below in red italics: **25. 'undertaking' means any natural or legal person who:** b) **produces, recovers, recycles, reclaims, uses or destroys fluorinated greenhouse gases;** c) **imports or exports such gases;** d) **places such gases*, or products or equipment containing such gases,* on the market;** e) **installs, services, maintains, repairs or decommissions equipment containing such gases *or conducts leakage checks from such equipment*; or** f) **is the operator of equipment which contains such gases** *g) produces, imports, exports, places on the market or destroys gases listed in Annex II* *h) places on the market products or equipment contaning gases listed in Annex II* *Justification for the proposed amendments to definition 23 "Undertaking":*

	Entities which place on the market products or equipment containing F-gases are not listed in definition of "undertaking" while obligations for such undertakings are contained in Article 17. We suggest the relevant addition in subparagraph (c) – see above. *Persons which conduct leakage checks are not listed in definition of "undertaking" while obligations for such undertakings are contained in Article 8(1). We suggest the relevant addition in subparagraph (d) – see above.* *Entities dealing with gases contained in Annex II are not listed in definition of "undertaking" while obligations for such undertakings are contained in Article 17. We suggest to add the relevant subparagraphs (f) and (g) - see above.* - We propose adding three new definitions to art. 1: ***29. "direct export" means .....?????????????*** ***30. "subsequent export" means .....????????????????????????*** ***31. "repackaging" means...?????????????????*** *Justification for addition of definitions 29-31 as above:* *Definitions of "direct export", "subsequent export" and "repackaging" are needed since based on amendments made by the Presidency in art. 13 supplies for those applications will not be counted in quotas allocated to importers or producers. It should then be crystal clear what those exemptions actually mean. Moreover, with regard to "repackaging" it should be noted that under the ODS Regulation there is ongoing discussion on what "repackaging" actually means, so clarification in that regard will also be helpful in the context of ODS.*

Art. 2	- We can support amendments made in paragraph 3 - We suggest the following amendments in paragraphs 4 and 5 – made in red: **4 .....** **Undertakings which are legal persons carrying out the activities mentioned in Article 8(1), for other parties, shall be certified in accordance with Article 8(4) and shall take precautionary measures to prevent leakage of fluorinated greenhouse gases** 6. Any ~~person or~~ **undertaking** who assigns **a**~~the~~ task ~~of installing, servicing, maintaining, repairing or decommissioning electrical switchgear that contains SF_6 or equipment~~ referred to in Article **8**~~3~~(1) to another ~~person or~~ **undertaking**~~party~~ shall ascertain that that other ~~person or~~ **undertaking**~~party~~ holds the necessary certificates pursuant to Article 8 for the required tasks. *Justification for the proposed amendments in paragraphs 4 and 5:* *Since definition of "undertaking" covers now both "natural persons" (i.e. "persons") and "legal persons" (i.e. "companies") it would be more appropriate from legal point of view to use wording "undertakings which are legal persons" in paragraph 4 instead of the word "undertakings" (paragraph 4 concerns legal persons only, i.e. not ALL "undertakings") and to delete "persons or" in paragraph 5 (paragraph 5 concerns both natural and legal persons, i.e. ALL "undertakings"). See also our comments of similar nature to Art. 8 and Art. 9(4).*

Art. 3	- We support amendments made by the Presidency - We suggest that the following subparagraph (g) is added to the list of equipment in paragraph 1: *(g) **refrigeration units of refrigerated containers placed on the EU market*** *Justification for the proposed amendment:* *Our suggestion that the refrigerated containers should be covered by the leakage checking obligation was made earlier, but was not accepted despite that similar suggestions were made by other MSs. In our suggestion for a new sub-para (g) we made it clear that it would not concern all containers, but only those which were placed on the EU market, i.e. which are owned by the EU entities, which should be responsible for leakage checking as operators. The argument put forward by the Commission that it is not possible to establish a leakage checking obligation for containers since those are returned to exporters outside the EU is not relevant if the wording of para (g) is as we suggest.* - We are ready to accept addition of other means of transport to the list of equipment in paragraph 1 - We can accept delegated acts referred to in paragraph 4
Art. 4	- We support all amendments made by the Presidency
Art. 5	- We support amendments made by the Presidency except for subparagraph (e) of paragraph 1 where we suggest the following amendment : (c) an identification of the undertaking ***(where applicable - both legal*** ~~**and the**~~ ***and natural*** **person*****s)*** who installed, serviced, maintained and, where applicable, repaired or decommissioned the equipment; *Justification for the proposed amendment:* *Since the term "undertaking" has been defined to cover both natural and legal persons it is legally not correct to say " undertaking and the person"*
Art. 6	- We support all amendments made by the Presidency

Art. 7	- We support all amendments made by the Presidency - We are against delegated acts refereed to in paragraph 2 since in our view the list of equipment contained in paragraph 1 is an important part of the new regulation and therefore should be changed only through implementing acts.
Art. 8	- We support amendments made by the Presidency, in particular those which refer to the evaluation process as mandatory element of certification process. In our view passing the examination, not completing the training course, must be a condition for receiving a personal certificate. - We suggest the following amendment to paragraph 4: 4. Member States shall establish certification programmes for undertakings ***which are legal persons*** carrying out the activities mentioned in paragraph 1, points (a) to (d), for other parties. *Justification for the proposed amendment:* *Since the term "undertaking" has been defined to cover both natural and legal persons it should be made clear which "undertaking" is referred to in paragraph 4.* - We are against delegated acts referred to in paragraph 7 since the rules governing the certification programs constitute very important part of the new regulation

Art. 9	- We support the amendments made by the Presidency except for the proposed text of new paragraph 4 – see our comments below - We wish to note that the following subparagraph should be deleted from paragraph 1: ~~***For the calculation of the global warming potential of mixtures of fluorinated greenhouse gases contained in those products and that equipment the method laid down in Annex IV shall be applied.***~~ *Justification for the proposed deletion:* *Now the relevant subparagraph is not needed since it is explained in GWP definition how GWP of mixtures shall be calculated. If that subparagraph is deleted, the reference to art. 9(1) subparagraph 2 in the heading of Table in Annex III shall be replaced with reference to GWP definition, i.e. to art. 1(6) – see our relevant comment to Annex III.* - We support the idea contained in the new paragraph 4 – i.e. that undertakings (i.e. natural or legal persons) can purchase F-gases only if they hold certificates. However, if paragraph 4 stays as it is written it would legally mean that while those natural or legal persons which undertake activities referred to in Article 8(1) (a) to (d) will have to show the relevant certificate in order to purchase F-gases, any other natural or legal persons will be allowed to purchase F-gases without any certificate. Therefore, we suggest to change the present wording of new paragraph 4 to the new wording as follows: ***4. „F-gases shall only be sold to and purchased by undertakings that hold the certificates, except for cases when the purchase of F-gas is part of transaction of equipment installation, maintenance or servicing with such gases carried out by the seller".*** *Justification for the proposed new text of new paragraph 4:* *The wording we are proposing would mean that trade in F-gases will be allowed only between the natural or legal persons holding the certificates (no matter what type of certificate it would be) except for specific cases when the customer will purchase the F-gas as part of transaction of installation, maintenance or servicing his equipment.* - We are definitively against delegated acts in article 9 since we believe that the list of bans in Annex III is one of substantial elements of the Regulation and any changes should be made through implementing acts, not delegated acts.

Art. 10	- We support amendments made by the Presidency - "Pre-blended polyols" are definitely missing either in the list in paragraph 1 or in paragraph 4 which deals with foams. We suggest changing "Foams" to "Foams ***and pre-blended polyols***" in the first line of paragraph 4 - "Solvents" are definitely missing in the list in paragraph 1. We suggest adding new subparagraph ***(h) "All fluorinated gas solvents"*** to that list - We suggest that paragraph 2 is amended as follows: The label required in accordance with paragraph 1 shall indicate the following: (d) Information that the product or equipment contains fluorinated greenhouse gases ***or its functioning relies on such gases***; ***(e) In case of product or equipment containing fluorinated greenhouse gases :*** The name of the fluorinated greenhouse gases using the accepted industry designation or, if no such designation is available, the chemical name; (2) As of 1 January 2017, the quantity of greenhouse gases contained in the product or equipment, expressed in weight and in CO_2 equivalent. Where the fluorinated greenhouse gases are contained in a hermetically sealed ***~~system~~ equipment or equipment sealed upon installation***, this shall be stated on the label. *Justification of the proposed amendments in paragraph 2*: - *Regarding subparagraph (a) - it is clear that if the functioning of product or equipment relies on F-gases this information shall be indicated in the label* - *Regarding changing "hermetically sealed system" to "hermetically sealed equipment" – it is obvious taking into account change made by the Presidency to art. 1(11)* - *Regarding addition of the requirement that if the equipment was sealed upon installation it should be stated on the label – it is also obvious since in view of the exemption for such equipment contained in art. 3(1) that equipment should be easy to identify* - We are in the position that if HFC quantities placed on the market for certain purposes are exempted from quota allocation (art. 13), F-gases supplied for those purposes should be labelled accordingly. Therefore, we propose that after paragraph 4bis the following four paragraphs are added : -

	4 tert Fluorinated greenhouse gases placed on the market for destruction must be labeled with an indication that the contents of the container may only be destroyed ***4.... Fluorinated greenhous gases placed on the market for feedstock use must be labeled with an indication that the contents of the container may only be used as feedstock*** ***4... Fluorinated greenhouse gases placed on the market for direct export must be labeled with an indication that the contents of the container may only be directly exported*** ***4.... Fluorinated greenhouse gases placed on the market for repackaging must be labeled with an indication that the contents of the container may only be repackaged and subsequently exported*** Consequently, the references to paragraphs 1-3 in paragraphs 6 and 7 should be replaced with references to paragraph 4bis and the new four paragraphs we are proposing. - We can be flexible with regard to delegated acts referred to in paragraph 7.

Art. 11	- We welcome changes made by the Presidency to article 11 - We strongly suggest that the dates in paragraph 3 are moved forward <u>as a minimum</u> from 2020 to 2025 and from 2025 to 2030 <u>*Justification for our request for moving the dates forward in paragraph 3*</u>: *Servicing ban contained in art. 11 should be considered not only in the context of servicing the equipment containing HFCs, but also in the context of servicing the equipment containing HCFCs. We wish to point out that starting from 1 January 2015 servicing of equipment that presently contains HCFC, in particular HCFC-22, with HCFCs will be banned, so such equipment will have to be serviced with drop-in blends containing HFCs which all have very high GWPs. If the servicing ban with HFCs starts too early, that equipment will have to be decommissioned far before their natural end of life and replaced Wit New equipment what definitely will not be technically and economically feasible.* - We wish to note that the text of first subparagraph in paragraph 3 shall be amended to reflect the fact that mixtures are now "fluorinated greenhouse gases". The amended text shall look like it is presented below: "The use of fluorinated greenhouse gases~~***, or of mixtures that contain fluorinated greenhouse gases,***~~ with a global warming potential of 2500 or more, to service or maintain refrigeration equipment with a charge size equivalent to **<u>40</u>** tonnes of CO_2 or more, shall be prohibited from 1 January 2020**<u>. This provision shall not apply to equipment intended for applications < -50°C."</u>** - We wish to note that the last subparagraph in article 11 paragraph 3 shall be removed – see below - since the explanation how to calculate GWP of mixtures (reference to Annex IV) has been included in the amended GWP definition in art. 1(6). ~~***"For the purpose of this provision, the global warming potential of mixtures that contain fluorinated greenhouse gases shall be calculated pursuant to Annex IV."***~~
Art. 12	- We maintain our reservation concerning the ban on pre-charged equipment. However, we are ready to discuss the issue in the context of other bans proposed in the new regulation.

Art. 13	- We can agree on exemptions listed in paragraph 2, but only if exactly the same exemptions will be included in Art. 14 with regard to calculation of reference values – see our comments to Art. 14. - Moreover, in the context of those exemptions the terms *„direct export"*, *„subsequent export"* and *„repackaging*" shall be defined in Article 1 (see our comments to Art. 1), the obligatory labeling of F-gases placed on the market for the purposes covered by all exemptions from quota allocation system shall be included in Art. 10 (see our comments to Art. 10) and the relevant reporting requirements shall be included in Article 17 (with regard to feedstock uses) and in Annex VII (see our comments to Art. 17 and Annex VII) . - We are very much against delegated acts referred to in paragraph 4 since in our view both the phase down schedule contained in Annex V (once eventually agreed upon) and the rules governing the quota allocation system are among the most important provisions of the new regulation
Art. 14	- We strongly suggest that the following paragraph is added after paragraph 1: ***1bis.*** ***„A reference value referred to in paragraph 1 shall not include quantities of hydrofluorocarbons which were supplied for : destruction, feedstock applications, direct export outside the Union and for repackaging and subsequent export outside the Union"*** *Justification for our request for adding paragraph 1a*: *Adding that paragraph in Art. 14 is inevitable if the HFC quantities placed on the market for destruction, feedstock, direct export and repackaging and subsequent export will be exempted from quota allocation system in Art. 13.* - We are very much against delegated acts referred to in paragraph 6 since in our view the rules governing the calculation of the reference value for quota allocation are among the most important provisions of the new regulation
Art. 15-16	- We support changes made by the Presidency in those articles.

Art. 17	- We strongly suggest that the title of Art. 17 is changed to : "Reporting on production, import, export, ***feedstock use*** and destruction" - We strongly suggest that the following paragraph 2bis is added : ***"2bis. By 31March each undertaking that used fluorinated greenhouse gases as feedstock during the preceding calendar year shall report to the Commission the data specified in Annex VII on each of those substances for that calendar year"*** *Justification for the proposed amendments to Article 17*: *In the context of the exemption from quota allocation system for quantities of HFC used as feedstock that is proposed by the Presidency there should be a reporting obligation regarding feedstock uses. Otherwise it will not be possible to check whether HFC quantities declared as imported for the purpose of being used as feedstock were actually used as feedstock. See also our proposed corrections to Annex VII in that regard.* - We can be flexible with regard to delegated acts in paragraph 5 since in our view the thresholds referred to in article 17 constitute quite important provision of the new regulation
Art. 18	- We are definitely against deleting Art. 18 since in our view the MSs should have opportunity to monitor the use and emissions of F-gases, but we do not see the need for telling them in the regulation how they should do it. In that context we suggest that instead of deleting Art. 18 that article should be left, but the text proposed originally by the Commission could be replaced with the following short text: ***1. "Member States should establish a new system or use an existing system if it is available that would allow for monitoring the use and actual emission of F-gases in sectors covered by this Regulation. Such system may include collection and analysis of data recorded by operators of equipment, as specified in Article 5(1)."***

Art. 19	- We suggest that the words *"put on the market"* in the last line of paragraph 1 are replaced with "***placed on the market"*** - We would like to know why the obligation for the Commission to publish a report on availability of HFCs contained in paragraph 3 was cancelled. In our view such report would be very useful. - We noted that reference to Art. 18 which was deleted in the Compromise Text was left in paragraph 3, but in view of our suggestion to retain Art. 18, but amend the text considerably, that reference should remain. - We are against delegated acts referred to in paragraphs 1 and 2 since in our view the contents of Annexes I, II and IV constitute very important part of the new regulation and therefore any changes shall be made through implementing acts.
Art. 20-24	- We support changes made by the Presidency to Art. 21. - We suggest that the date in paragraph 1 of Art. 22 is moved forward by one year since in our view the time for including provisions related to penalties in national legislations of MSs is still too short. - We wish to ask why Commission regulations 1493 (related to reporting) and 1494 (related to labeling) have not been included in the list of regulations which will remain in force until replaced with new revised regulations
Annex II, Section 2	- The formula of HFE-569sf2 (HFE-7200) is wrong. The corect formula should be: ***$C_4F_9OC_2H_5$*** - The following substances listed in Annex II Section 2 are not fluorinated ethers, but fluorinated alcohols: ***$CF_3CF_2CH_2OH$, $(CF_3)_2CHOH$ and - $(CF_2)_4CH(OH)$-.*** Therefore, if those substances are to be left in Annex II, either a new Section 2bis "Fluorinated alcohols" should be created where those two substances could be moved from Section 2 or those two substances are moved to Section 3. Moreover, it is not clear what the third substance (- *$(CF_2)_4CH(OH)$-)* actually is. It is definitely a fluorinated alcohol, not fluorinated ether, but is it a cyclic compound (most likely) or perhaps a polymer?

Annex III	- We suggest moving the dates forward in item 11 from 2017 to 2020 and from 2020 to 2025 since in our view a sufficiently long time has to pass until the relevant alternative equipment that would be equally energetically efficient would be available at a cost comparable cost to the cost of equipment containing HFCs - We wish to note that in the heading of the Table the reference shall be to art. 1 paragraph 6, i.e. to the definition of GWP – see our comment to art. 9. Moreover, the wording "mixtures containing fluorinated greenhouse gases" shall be replaced with "mixtures which are fluorinated greenhouse gases" since now fluorinated greenhouse gases are defined as substances or mixtures. Therefore, the heading of the Table shall look like it is presented below: **"Products and equipment** Where relevant, the global warming potential (GWP) of mixtures ~~***containing***~~ ***which are*** fluorinated greenhouse gases shall be calculated in accordance with Annex IV, as provided for in Article ~~***9(1)***~~ **1** subparagraph ~~***2***~~ ***6***." - We wish to note that in view of the new (correct) definition of non-refillable container the text in the first column of item 1 shall be amended accordingly – see the amended text blow: 1. "Non-refillable containers for fluorinated greenhouse gases ~~***used to service, maintain or fill refrigeration, air-conditioning or heat-pump equipment, fire protection systems or switchgear, or for use as solvents"***~~ - We wish to note that in the text in the first column in item 10 the words "containing HCFCs" shall be removed since that is repetition - We wish to note that the text in the first column in item 11 needs to be amended because (1) "commercial use" has been separately defined in art. 1(25) and the wording which is now used in the Presidency text (see art. 1(11) is "hermetically sealed equipment", not "hermetically sealed system". Therefore, the text in the first columen of item 11 shall be amended as follows: Refrigerators and freezers for ~~***the storage, display or distribution of products in retail and food service***~~ ~~(~~"commercial use"~~)~~ - hermetically sealed ~~***systems***~~ equipment

Annex IV	- We suggest that the following corrections are made to the text in the beginning of Annex IV: **Annex IV** **Method of calculating the total global warming potential of a mixture ~~*referred to in Articles 9(1) and 11(3)*~~** The total global warming potential (GWP) of a mixture that ~~*contains*~~ ***is*** fluorinated greenhouse gases is calculated as a weighted average, derived from the sum of the weight fractions of the individual substances multiplied by their GWP, unless otherwise specified, including substances that are not fluorinated greenhouse gases ***and which fulfill the same function as a single F-gas substance would do (refrigerant, propellant, extinguishing agent, blowing agent etc.) and are liable to be released into the atmosphere under normal conditions of use, with all the constituents being released into the atmosphere together***. *Justification for the proposed corrections:* - *Reference to Articles 9(1) and 11(3) has to be deleted since definition of F-gases now includes "mixtures" and "mixtures" shall disappear in articles 9 and 11 – see our comments to those articles.* - *Wording "mixture that contains fluorinated greenhouse gas" is not relevant anymore since "mixture" is now a fluorinated greenhouse gas.* - *Addition of explanation that the components of the mixture which are not F-gases shall only be included in the calculation of GWP if they "fulfill the same function as single F-gas substance would do (refrigerant, propellant, extinguishing agent, blowing agent etc.) and which are liable to be released into the atmosphere under normal conditions of use, with all the constituents being released into the atmosphere together" is quoted from the "Commission's guidance and interpretation paper on certain issues arising from Regulation (EC) 842/2006 on certain fluorinated greenhouse gases". We strongly suggest that this explanation is included in Annex IV to new regulation, so there will be no doubts raised regarding GWP calculation of mixtures.*

Annex V	- In our view the HFC phase-down schedule contained in Annex V should be corrected in order to: (1) reduce number of steps and (2) make the phase down slower than proposed. Our suggested HFC phase down schedule will look like this: 2015 – 100% 2020-2029 – 70 % 2030 – 21% We are open for discussion on that phase-down schedule supposing that : (1) the number of steps is reduced and (2) subsequent steps will enable to diminish allowed HFC quantities slower than it is foreseen in the Commission proposal. In the same time we do not question the end date 92030) and the final allowed quantity (21% of the baseline) *Justification for the proposed corrected approach to the HFC chase-down schedule* *Taking into account realistic scenario of market penetration of HFC alternatives it should be noted that it may be extremely difficult for the enterprises – specifically in the "new" MSs which started to use non-HFC alternatives to HCFCs much later than the "old" MSs - to change to non-HFC solutions as quickly as proposed by the Commission. . We think that establishing the freeze until 31 Dec 2019 and first reduction step starting from 1 Jan 2020 will facilitate the phase-down and make it more smooth. Allowing 70% throughout 10 years gives enough time for the enterprises to make necessary changes and then – the second reduction step could be really significant (down from 70% to 21% starting from 2030).* - We very much support (with small correction) the last sentence in Annex V where the detailed explanation of the rules governing the exemption of quantities of HFC placed on the market for direct export from quota allocation system. We therefore strongly suggest that similar explanations are added to Annex V regarding exemption of quantities of HFC placed on the market for other purposes (destruction, feedstock, repackaging and subsequent export). See the relevant text below (including the text already proposed by the Commission, but with some correction, and the new text) : "Quantities ***to be exported in the same allocation period or*** transferred to an undertaking to be exported in the same allocation period, are not taken into account for calculating a quota or assessing compliance with Article 13(2), provided the export takes place during the same period and the exporter reports it in accordance with Article 17(1). The transaction must be verified in accordance with Article 17(4) regardless of the quantities involved. ***This provision concerns also quantities imported for repackaging and exported in the same allocation period or transferred to an undertaking for repackaging and export in the same allocation period"*** ***"Quantities imported for destruction or for feedstock uses, are not taken into account for calculating a quota or assessing compliance with Article 13(2), provided the destruction or feedstock use takes place during the same period and the undertaking concern reports in accordance with Article 17(1). The transaction must be verified in accordance with Article 17(4) regardless of the quantities involved".***

	We also think that the reporting requirements regarding the exempted uses contained in the texts presented above shall be reflected in Annex VII which deals with reporting in detail- see our comments to Annex VII. - We have still one comment to Annex V –to the text below the title of the Annex – see below: "The maximum quantity referred to in Article 13(1) shall be calculated by applying the following percentages to the annual average of the total quantity ~~***produced and imported into the Union***~~ ***placed on the market in the Union*** during the period from 2008 to 2011:"

Annex VII	- We suggest that the following corrections are made in the text of Annex VII – for explanation - see our comments to Annex V, Art. 13 and Art. 17.

ANNEX VII

Data to be reported pursuant to Article 17

1. Each producer referred to in Article 17(1) shall report on:

(a) the total production of each substance in the Union, identifying the main categories of application in which the substance is used;

(b) the quantities of each substance it has placed on the market in the Union, ***specifying separately quantities placed on the market for destruction, feedstock uses, direct exports and repackaging***;

(f) the quantities of each substance that have been recycled, reclaimed and destroyed, respectively;

(g) any stocks held at the beginning and the end of the reporting period.

2. Each importer referred to in Article 17(1) shall report on:

(h) the quantity of each substance it has imported into the Union, identifying the main categories of application in which the substance is used, ***specifying separately quantities placed on the market for destruction, feedstock uses, direct exports and repackaging***;

(i) the quantities of each substance that have been recycled, reclaimed and destroyed, respectively.

(j) any stocks held at the beginning and the end of the reporting period

3. Each exporter referred to in Article 17(1) shall report on:

(k) the quantities of each substance that it has exported from the EU other than to be recycled, reclaimed or destroyed***, specifying separately the quantities exported after repackaging***;

(l) any quantities of each substance that it has exported to be recycled, to be reclaimed and to be destroyed, respectively.

4. Each undertaking referred to in Article 17(2) shall report on:

(m) the quantities of each substance destroyed, including quantities contained in products or equipment;

(n) any stocks of each substance waiting to be destroyed, including quantities contained in products or equipment;

(o) the technology used for the destruction.

	4bis. Each undertaking referred to in Article 17(2bis) shall report on: ***(l') the quantities of each substance used as feedstock*** 5. Each undertaking referred to in Article 17(3) shall report on: (p) the categories of the products or equipment; (q) the number of units or mass volume ***(in case of not countable products, e.g. foams or pe-blended polyols)***; (r) any quantities of each substance contained in the products or equipment.

FINLAND

PRES text	FI comments and questions
general comment	Attention should be paid on use of F-gases in ships (reporting, certification of personnel etc.) because international maritime rules (which we do not yet know enough) apply to ships.
Article 0 Objective The objective of this Regulation is to protect the environment by reducing emissions of fluorinated greenhouse gases, and by the adoption of related ancillary measures. Accordingly, this Regulation lays down rules on containment, use, recovery and destruction of fluorinated greenhouse gases, and prohibits specific uses of these gases, whilst setting out quantitative ***l***imits for the placing on the market of hydrofluorocarbons.	

Article 1 Definitions For the purposes of this Regulation the following definitions shall apply: 1. 'fluorinated greenhouse gases' means the hydrofluorocarbons ("HFCs"), perfluorocarbons ("PFCs"), sulphur hexafluoride ("SF6") and other greenhouse gases that contain fluorine, as listed in Annex I, or mixtures containing any of these substances. whether alone or in a mixture; 2. 'hydrofluorocarbon (HFCs)' means substances listed in section 1 of Annex I, or mixtures containing any of these substances 3. 'perfluorocarbons (PFCs)' means substances listed in section 2 of Annex I, or mixtures containing any of these substances 4. 'sulphur hexafluoride (SF6)' means this substance, listed in section 3 of Annex I, or mixtures containing this substance 5. 'mixture' means a mixture or solution composed of two or more substances, at least one of which is a flourinated greenhouse gas; 6. 'global warming potential' ("GWP") means the climatic warming potential of a greenhouse gas relative to that of carbon dioxide ("CO2"), calculated in terms of the 100-year warming potential of one kilogram of a gas relative to one kilogram of CO2, as laid down in Annexes I, II and III, and, for mixtures, calculated in accordance with Annex IV; 7. 'tonne(s) CO2 equivalent' means a quantity of greenhouse gases, or of a mixture containing such gases, expressed as the product of the weight of the greenhouse gases in metric tonnes and their global warming potential; 8. 'operator' means the natural or legal person possessing the equipment and systems covered by this Regulation and exercising actual power over the technical functioning of the equipment and products them covered by this Regulation;	We support the additions to the list of definitions. We have a few questions: - 11 and 12. According to comments we have received from our industry experts it is not possible to test leakage in situ at this level of accuracy. This leakage check could however be required from equipment hermetically sealed during manufacturing. - 20. It is a little unclear to us what kind of portable equipment could this mean? - 24. Is the definition of undertaking necessary and/or useful, as the definition is so wide (includes producers etc, servicing companies, operators – different rules apply to these groups)? - 25. Should 'food services' be defined or is it clear? Does it include restaurants and cafes? How about food production industry or warehouses, where food is stored?

9. ‘use’ means the utilisationse of fluorinated greenhouse gases in the production, maintenance or servicing, including the refilling, of products and equipment, or in other processes; 10. ‘placing on the market’ means supplying or making available to another party in the Union for the first time, for payment or free of charge, or using for its own account in the case of a producer, or importing into the customs territory of the Union under a customs procedure that allows use or operation of the imported goods in the Union; 11. ‘hermetically sealed equipment system means a system in which all parts that contain fluorinated greenhouse gases have been hermetically sealed during their manufacturing by welding them, brazing them or otherwise making them tight by permanently connecting them and for which the refrigerant circuit does not need to be opened for placing the system into operation; 12. ‘equipment sealed upon installation’, means equipment which has been sealed during its installation by welding, brazing or a similar permanent connection which may include capped valves and capped service ports that allow for proper repair or disposal and which has a tested leakage rate of less than 3 grams per year under a pressure of a least a quarter of the maximum allowable pressure 13. ‘container’ means a product which is designed primarily for transporting or storing fluorinated greenhouse gases; 14. ‘a non-refillable container’ means a container which cannot be refilled without being adapted for that purpose or is placed on the market without provision having been made for its return for refilling; 15. recovery’ means the collection and storage of fluorinated greenhouse gases from products, equipment or containers during maintenance or servicing or prior to the disposal of the products, equipment or containers;	

16. ‘recycling’ means the reuse of a recovered fluorinated greenhouse gas following a basic cleaning process; 17. ‘reclamation’ means the reprocessing of a recovered fluorinated greenhouse gas in order to meet the equivalent performance of a virgin substance, taking into account its intended use; 18. ‘destruction’ means the process of permanently transforming or decomposing all or most of a fluorinated greenhouse gas into one or more stable substances that are not fluorinated greenhouse gases; 19. ‘mobile’means normally in transit during operation 20. ‘stationary’ means not normally in motion in transit during operation and includes portable equipment 21. ‘one-component foam’ means a foam composition contained in a single aerosol container in unreacted or partly reacted liquid state and that expands and hardens when it leaves the container; 22. ‘refrigerated truck’ means a motor vehicle with a maximum mass of more than 3.5 tonnes that is designed and constructed primarily to carry goods and that is equipped with a refrigeration unit; 23. ‘refrigerated trailer’ means a vehicle that is designed and constructed to be towed by a truck or a tractor, primarily to carry goods and that is equipped with a refrigeration unit; 24. ‘undertaking’ means any natural or legal person who: a) produces, recovers, recycles, reclaims, uses or destroys fluorinated greenhouse gases; b) imports or exports such gases; c) places such gases on the market; d) installs, services, maintains, repairs or decommissions equipment containing such gases; or e) is the operator of equipment which contains such gases 25. ‘commercial use’ means used for the storage, or display or dispensing of products, for sale to end users, in retail and food services;	

26. ‘leakage detection system’ means a calibrated mechanical, electrical or electronic device for detecting leakage of fluorinated greenhouse gases which upon detection alerts the operator; 27. ‘feedstock’ means any fluorinated gas that undergoes chemical transformation in a process in which it is entirely converted from its original composition and its emissions are insignificant; 28. ‘fire protection equipment’ means the equipment and systems utilised in fire protection applications.	
Article 2 Prevention of emissions 1. The intentional release of fluorinated greenhouse gases into the atmosphere shall be prohibited where the release is not technically necessary for the intended use. 2. Operators of equipment that contains fluorinated greenhouse gases shall take precautions to prevent their unintentional release (hereinafter "leakage"). 3. Where a leakage of those gases is detected, the operators shall ensure that the equipment is repaired as soon as possible and, in any event, within 14 days. For equipment specified in Article 3(1), where a leak in the equipment has been repaired, the operators shall ensure that the equipment is checked by certified persons within one month after the repair to verify that the repair has been effective. 4. Persons carrying out the tasks referred to in Article 8(1), shall be certified in accordance with Article 8 and shall take precautionary measures to prevent leakage of fluorinated greenhouse gases Undertakings carrying out the activities mentioned in Article 8(1), for other parties, shall be certified in accordance with Article 8(4) and shall take precautionary measures to prevent leakage of fluorinated greenhouse gases 5. Any person or undertaking who assigns a task referred to in Article 83(1) to another person or undertaking shall ascertain that that other person or undertaking holds the necessary certificates pursuant to Article 8 for the required tasks.	We welcome the changes, the paragraph is more clear now.

Article 3 Checking for leakage 1. Operators of equipment that contains fluorinated greenhouse gases with a global warming potential equivalent to 5 tonnes of CO2, or more, not contained in foams shall ensure that the equipment is checked for leakage. However hermetically sealed equipment or equipment sealed upon installation and containing fluorinated greenhouse gases with a global warming potential equivalent to less than 10 tonnes CO2, shall not be subject to leak checks under this Article, provided such equipment is labelled as hermetically sealed or sealed upon installation The checks shall be carried out by persons certified in accordance with the rules provided for in Article 8. This paragraph applies to operators of the following equipment that contains fluorinated greenhouse gases: (a) stationary refrigeration equipment; (b) stationary air-conditioning equipment; (c) stationary heat pumps; (d) stationary fire protection equipment (e) refrigeration units of refrigerated trucks and refrigerated trailers. (f) electrical switchgear 2. The checks pursuant to paragraph 1 shall be carried out with the following frequency: (a) equipment that contains fluorinated greenhouse gases with a global warming potential equivalent to 5 tonnes of CO2 or more but to less than 50 tonnes of CO2, shall be checked for leakage at least once every 12 months; (b) equipment that contains fluorinated greenhouse gases with a global warming potential equivalent to 50 tonnes of CO2 or more, but to less than 500 tonnes of CO2, shall be checked for leakage at least once every six months or, where a leakage detection system has been installed, every 12 months ; (c) equipment that contains fluorinated greenhouse gases with a global warming potential equivalent to 500 tonnes of CO2 or more shall be checked for leakage at least once every three months or, where a leakage detection system has been installed, every six months	We welcome the changes to Article 3. We are flexible with both options for determining the frequency of leakage checks (kg and CO2-eq.), they both have pros and cons. If the frequency of leakage checks will be based on the CO2-eq. tonnes, there should be a transitional period for relabeling existing equipment which is already in use and also a simple tool to convert kg to CO2 eqv. (e.g,. a calculation tool in COM/MS web-site) will be necessary.

3. Where in respect of fire protection systems as referred to in paragraph 1(d) there is an existing inspection regime in place that meets ISO 14520 or EN 15004 standards, and the fire protection system is inspected as often as required in accordance with paragraph 2, those inspections shall be considered to fulfil the obligations of paragraph 1. 4. The Commission shall be empowered to adopt **delegated** acts in accordance with Article 20 specifying requirements for the leakage checks to be carried out in accordance with paragraph 1 of this Article for each type of equipment referred to in that paragraph, identifying those parts of the equipment most likely to leak, and amending the list of equipment in paragraph 1 of this Article to include other types of equipment in the light of market trends and technological progress.	
Article 4 Leakage detection systems 1. Operators of the equipment referred to in Article 3(1) containing fluorinated greenhouse gases with a global warming potential equivalent to 500 tonnes CO2 or more, shall ensure that, [by 1 January 2017] the equipment is provided with a leakage detection system which alerts the operator of any leakage. Such leakage detection systems shall be checked at least once every 12 months to ensure their proper functioning.	

Article 5 Record keeping 1. Operators of equipment listed in Article 3(1), shall for each piece of such equipment establish and maintain records of the following information identifying the equipment: (a) the quantity and type of fluorinated greenhouse gases installed, specifying, where applicable, the quantity contained in a device for automatic topping up; (b) the quantities of fluorinated greenhouse gases added and the reasons for adding them; (c) the quantity of fluorinated greenhouse gases recovered; (e) an identification of the undertaking and the person who installed, serviced, maintained and, where applicable, repaired or decommissioned the equipment; (f) the dates and results of the checks carried out under Article 3(1) and (3); (g) if the equipment was decommissioned, the measures taken to recover and dispose of the fluorinated greenhouse gases. 2. Unless the records referred to in paragraph 1 are registered in a database set up by the competent authorities of the Member States, the operators referred to in paragraph 1 shall keep the records for at least five years. Unless the records referred to in paragraph 1 are registered in a database set up by the competent authorities of the Member States, persons or undertakings carrying out the activities referred to in paragraph 1(e) for operators shall keep copies of the records for at least five years. The records shall be made available on request to the competent authority or to the Commission. 3. The Commission may determine the format of the records referred to in paragraph 1 and specify how they should be established and maintained in an implementing act. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 21.	5(2): In our opinion the duty to keep reports should lie with the operator of the equipment, not on the service company.
Article 6 Emissions from production Producers of fluorinated compounds shall take all the precautions necessary to limit emissions of fluorinated greenhouse gases, to the greatest extent possible, during production, transport and storage. Those producers shall ensure that trifluoromethane (HFC-23) produced as a by-product as part of the manufacturing process is destroyed in line with best available techniques.	

Article 7 Recovery 1. Operators of equipment that contains fluorinated greenhouse gases not contained in foams, shall put arrangements in place for their recovery of those gases by persons and undertakings that hold the relevant certificates provided for by Article 8, to ensure that those gases are recycled, reclaimed or destroyed. This obligation applies to operators of any of the following equipment, including mobile equipment: (a) the cooling circuits of refrigeration, air-conditioning and heat pump equipment; (b) equipment that contains fluorinated greenhouse gas-based solvents; (c) fire protection equipment (d) electrical switchgear. 2. The Commission shall be empowered to adopt **delegated** acts in accordance with Article 20 amending the list of equipment in paragraph 1 to include other types of equipment in view of their increasing relevance due to the commercial or technological development. 3. Prior to disposal of a fluorinated greenhouse gas container, its final user shall arrange for the recovery of any residual gases to make sure they are recycled, reclaimed or destroyed. 4. Operators of equipment and products not listed in paragraph 1 that contain fluorinated greenhouse gases shall arrange for the recovery of the gases, to the extent that it is technically feasible and does not entail disproportionate costs, to make sure they are recycled, reclaimed or destroyed or for their destruction without prior recovery.	7(4) Would this provision apply also to foams (e.g. insulation material of buildings)? If this is the case, we can agree with the IE proposal.

Article 8 Training and certification 1. Member States shall establish certification programmes, including evaluation processes and shall ensure that training is available for the following persons: (a) persons who install, service, maintain, repair or decommission of the equipment listed in the third subparagraph of Article 3(1); (b) persons who carry out the leak checks provided for in Article 3(1); (c) persons who recover fluorinated greenhouse gases as provided for in Article 7; (d) persons who install, service, maintain, repair or decommission mobile air conditioning equipment. 2. The certification programmes and training provided for in paragraph 1shall cover the following: (a) applicable regulations and technical standards; (b) emission prevention; (c) recovery of fluorinated greenhouse gases; (d) safe handling of equipment of the type and size covered by the certificate; (e) technologies to replace or to reduce the use of fluorinated greenhouse gases and their safe handling. 3. Certificates under the certification programmes provided for in paragraph 1 shall be issued on condition of the applicant having successfully completed an evaluation process established in accordance with paragraphs 1 and 2. 4. Member States shall establish certification programmes for undertakings carrying out the activities mentioned in paragraph 1, points (a) to (d), for other parties. 5. Existing certificates, issued in accordance with Regulation EU 842/2006, shall remain valid, in accordance with the conditions under which they were originally issued. 5.bis By no later than 1 January 2020, all persons holding certificates referred to in paragraph 5 shall have undertaken an evaluation process in relation to technologies referred to paragraph 2, point (e).	We welcome the changes to Article 8, these are key questions for us.

6. Member States shall notify the Commission of certification programmes and training by 1 January 2017. They shall recognise certificates issued in another Member State. They shall not restrict the freedom to provide services or the freedom of establishment because a certificate was issued in another Member State. 7. The Commission shall be empowered to adopt **delegated** acts in accordance with Article 20 specifying minimum requirements for the certification programmes and training provided for in paragraph 1 and specifying conditions for the mutual recognition of certificates. 9. The Commission may, by means of **implementing** acts, determine the format of the notification referred to in paragraph 6. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21.	

Article 9 Restrictions on the placing on the market 1. The placing on the market of specific products and equipment listed in Annex III, containing fluorinated greenhouse gases or whose functioning relies upon fluorinated greenhouse gases, shall be prohibited from the date specified in that Annex, where applicable differentiating according to the type or global warming potential of the fluorinated greenhouse gas contained. For the calculation of the global warming potential of mixtures of fluorinated greenhouse gases contained in those products and that equipment the method laid down in Annex IV shall be applied. 2. The prohibition set out in paragraph 1 shall not apply to equipment for which it has been established in ecodesign requirements adopted under Directive 2009/125/EC11 that due to higher energy efficiency during its operation its lifecycle CO2 emissions would be lower than that from equivalent equipment which meets relevant ecodesign requirements and does not contain hydrofluorocarbons. 3. The Commission shall be empowered to adopt **delegated** acts in accordance with Article 20 amending the list set out in Annex III to include other products and equipment that contain fluorinated greenhouse gases with a global warming potential of 150 or more, or that rely on them to work, if it has been established that alternatives to the use of fluorinated greenhouse gases or to the use of specific types of fluorinated greenhouse gases are available, and their use would result in lower overall greenhouse gas emissions and to exclude, where appropriate for a specified period of time, certain categories of products or equipment for which alternative substances which fall below the specified global warming potential limit are not available for technical, economic or safety reasons. 4. For the purposes of carrying out the activities referred to in Article 8(1) (a) to (d) fluorinated greenhouse gases shall only be sold to and purchased by undertakings and persons that hold the relevant certificates in accordance with Article 8.	9(2) We would like to see a clarification in paragraph 2 (ecodesign), we are worried that there is a risk of creating a loophole. In our opinion the exempted equipment should be superior to all non-HFC-containing equipment with regards to life-cycle CO2 emissions. 9(3) We are concerned about the proposal to give the COM the possibility to adopt delegated acts to amend the list in Annex III. The list set out in Annex III can be considered as an essential element of the regulation, although para 3 does specify the circumstances under which delegated acts could be adopted. 9(4) We support the addition of para 4. In order to ensure compliance with 9(4) it is important that companies placing F-gases on the market are aware of the restrictions and pass this information on to their clients. Therefore we propose that each undertaking placing on the market fluorinated greenhouse gases should appoint a member of staff who has the responsibility to inform personnel and clients on regulations concerning F-gases. Member states competent authorities should keep a list of these companies and persons in charge.

Article 10 Labelling and product information 1. Products and equipment that contain fluorinated greenhouse gases or whose functioning relies upon fluorinated greenhouse gases shall not be placed on the market unless they are labelled. This paragraph shall apply to the following types of products and equipment: (a) refrigeration equipment; (b) air-conditioning equipment; (c) heat pumps; (d) fire protection equipment; (e) electrical switchgear; (f) aerosol cans that contain fluorinated greenhouse gases, with the exception of medical applications; (g) all fluorinated greenhouse gas containers. 2. The label required in accordance with paragraph 1 shall indicate the following: (a) Information that the product or equipment contains fluorinated greenhouse gases; (b) The name of the fluorinated greenhouse gases using the accepted industry designation or, if no such designation is available, the chemical name; (c) As of 1 January 2017, the quantity of greenhouse gases contained in the product or equipment, expressed in weight and in CO2 equivalent. Where the fluorinated greenhouse gases are contained in a hermetically sealed system, this shall be stated on the label. 3. The label shall be clearly readable and indelible and shall be placed adjacent to the service ports for charging or recovering the fluorinated greenhouse gas, or on that part of the product or equipment that contains the fluorinated greenhouse gas. 4. Foams that contain fluorinated greenhouse gases shall not be placed on the market unless the fluorinated greenhouse gases are identified with a label using the accepted industry designation or, if no such designation is available, the chemical name. The label shall clearly indicate that the foam contains fluorinated greenhouse gases.	Referring to our comment concerning Article 3, if the frequency of leakage checks will be determined based on CO2-eq. instead of kg of F-gases, a transitional period (e.g. 2 years from entry into force) for re-labelling **existing** equipment will be needed. So far existing equipment has been labeled with the F-gas in kg, but in order for operators to know how often leakage checks need to be performed, existing equipment already in use should be re-labelled.

In the case of foam boards, this information shall be clearly and indelibly stated on the boards. 4.bis Reclaimed fluorinated greenhouse gases must be labelled with an indication that the substance has been reclaimed and information on the batch number and the name and address of the reclamation facility. 5.. The information referred to in paragraphs 2 and 34 shall be included in instruction manuals for such products and equipment. In the case of products and equipment that contain fluorinated greenhouse gases with a global warming potential of 150 or more this information shall also be included in descriptions used for advertising. 6. The Commission may determine, by means of implementing acts, the format of the labels referred to in paragraphs 1 and 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21. 7. The Commission shall be empowered to adopt delegated acts in accordance with Article 20 amending the labelling requirements set out in paragraphs 1 and 3 and amending the list of products and equipment in paragraph 1 to include other products and equipment where appropriate in view of the commercial or technological development.	

Article 11 Control of use 1. The use of SF6 in magnesium die-casting and in the recycling of magnesium die-casting alloys shall be prohibited. As regards installations using a quantity of SF6 below 850 kg per year, this prohibition shall only apply from 1 January 2015. 2. The use of SF6 to fill vehicle tyres shall be prohibited. 3. The use of fluorinated greenhouse gases, or of mixtures that contain fluorinated greenhouse gases, with a global warming potential of 2500 or more, to service or maintain refrigeration equipment with a charge size equivalent to 40 tonnes of CO2 or more, shall be prohibited from 1 January 2020. This provision shall not apply to equipment intended for applications < -50°C. Until 1 January 2025, this provision shall not apply to reclaimed fluorinated greenhouse gases with a global warming potential of 2500 or more used for the maintenance or servicing of existing refrigeration equipment, provided that they have been labelled in accordance with Article 10 (5) Until 1 January 2025 this provision shall not apply to recycled fluorinated greenhouse gases with a global warming potential of 2500 or more used for the maintenance or servicing of existing refrigeration equipment provided they have been recovered from such equipment. Such recycled gases may only be used by the undertaking which carried out their recovery as part of maintenance or servicing or the undertaking for which the recovery was carried out as part of maintenance or servicing. For the purpose of this provision, the global warming potential of mixtures that contain fluorinated greenhouse gases shall be calculated pursuant to Annex IV.	We welcome the changes to the Article and we support the addition of the two new subparagraphs in para 3. The use of reclaimed or recycled substances should be allowed at least until 2025. We would like to see a more clear definition of the proposed exemption for very low temperatures in the first subparagraph to avoid problems of interpretation and the creation of possible loop-holes. We support the concept of complementing the service ban with bans in new equipment in Annex III.
Article 12 Pre-charging of equipment (no changes to original COM proposal) 1. From [dd/mm/yyyy] [insert date 3 years after entry into force of this regulation], refrigeration, air-conditioning and heat pump equipment shall not be charged with hydrofluorocarbons before it is placed on the market or before it is made available to the end-user for its first installation. The equipment shall be charged where it is intended to be used, by persons certified in accordance with Article 8. 2. Paragraph 1 shall not apply to hermetically sealed equipment or to equipment that contains a quantity of hydrofluorocarbons corresponding to less than 2 % of the equipment's foreseen maximum capacity.	We support the ban on pre-charging equipment, because it is essential for the integrity of the phase-down mechanism and we understand that the option of including pre-charged equipment in the quota system could be too burdensome for companies and administration. However we could also support other provisions that ensure the efficacy and practicability of the phase down.

Article 13 Reduction of the placing on the market of hydrofluorocarbons 1. The Commission shall ensure that the quantity of hydrofluorocarbons that producers and importers are entitled to place on the market in the Union each year does not exceed the maximum quantity for the year in question calculated in accordance with Annex V. Each producer and importer shall ensure that the quantity of hydrofluorocarbons calculated in accordance with Annex V that it places on the market does not exceed the quota allocated to it pursuant to Article 14(5) or transferred to it pursuant to Article 16. It shall not apply to producers or importers of less than 1 000 tonnes of CO2 equivalent of hydrofluorocarbons per year. 2. This Article shall not apply to the following: (a) hydrofluorocarbons imported into the Union for destruction; (b) hydrofluorocarbons supplied for use in feedstock applications; (c) hydrofluorocarbons supplied for direct export outside the Union; (d) hydrofluorocarbons supplied for repackaging and subsequent export outside the Union. 3. This Article and Articles 14, 16, 17 and 22 shall also apply to hydrofluorocarbons contained in polyol blends. 4. The Commission shall be empowered to adopt delegated acts in accordance with Article 20 (a) amending the maximum quantities set out in Annex V in the light of developments of the market in hydrofluorocarbons and related emissions; and (b) exempting the placing on the market for specific uses from the quota requirement laid down in paragraph 1 where the use of hydrofluorocarbons is necessary for health or safety reasons and a sufficient supply would otherwise not be ensured.	How (and to whom) would the importer prove that his products are meant for the exempted purposes? By labels (as in the ODS regulation)? We are concerned about the use of a delegated act in 13(4) (a), as the phase-down can be considered as an an essential part of the regulation. We could perhaps support the use of a delegated act if amending the maximum quantities would be a direct consequence of an international environmental treaty (e.g. an F-gas amendment under the Montreal Protocol).

Article 14 Allocation of quotas for placing hydrofluorocarbons on the market 1. By 31 October 2014 the Commission shall determine, by means of **implementing decisions**, for each producer or importer having reported data under Article 6 of Regulation (EC) No 842/2006 a reference value based on the annual average of the quantities of hydrofluorocarbons the producer or importer reported to have produced or imported placed on the market from 2008 to 2011. For the purposes of determining the reference value, no account shall be taken of quantities reported in excess of the quota. The reference values shall be calculated in accordance with Annex VI to this Regulation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21. 2. Producers and importers that have not reported placing on the market under Article 6 of Regulation (EC) No 842/2006 for the reference period referred to in paragraph 1 may declare their intention to place hydrofluorocarbons on the market in the following year. The declaration shall be addressed to the Commission, specifying the types of hydrofluorocarbons and the quantities that are expected to be placed on the market. The Commission shall issue a notice of the time limit for submitting those declarations. Before submitting a declaration pursuant to paragraphs 2 and 3, undertakings shall register in the registry provided for in Article 15. 3. By 31 October 2017 and every three years after that, the Commission shall recalculate the reference values for the producers and importers referred to in paragraphs 1 and 2 on the basis of the annual average of the quantities of hydrofluorocarbons produced or imported after 1 January 2015 as reported under Article 17. It shall determine those reference values by means of **implementing acts**. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21. 4. Producers and importers for which reference values have been determined may declare additional anticipated quantities following the procedure set out in paragraph 2. 5. The Commission shall allocate quotas for placing hydrofluorocarbons on the market for each producer and importer for each year beginning with the year 2015 applying the allocation mechanism laid down in Annex VI. 6. The Commission shall be empowered to adopt **delegated acts** in accordance with Article 20 determining the mechanism to recalculate the reference values pursuant to paragraph 3 and amending or supplementing the mechanism for allocating quotas set out in Annex VI.	

Article 15 Quota registry 1. The Commission shall set up and ensure the operation of an electronic registry for quotas for placing hydrofluorocarbons on the market. In the electronic registry the following shall be registered on request: (a) undertakings to which a quota for the placing on the market has been allocated in accordance with Article 14(5); (b) undertakings to which a quota is transferred in accordance with Article 16; (c) undertakings declaring their intention to submit a declaration pursuant to Article 14(2). 2. The Commission shall ensure that undertakings are informed via this registry about the quota allocated and about any changes to it during the allocation period. 3. The competent authorities of the Member States shall have access for information purposes to the registry with regard to those undertakings within their jurisdiction.	
Article 16 Transfer of quotas (no changes to COM proposal) Any producer or importer for whom a reference value has been determined pursuant to Article 14(1) or (3) and who has been allocated a quota in accordance with Article 14(5), may transfer that quota for all or any quantities to another undertaking in the Union that is registered in the registry referred to in Article 15(1). Any such transfer shall be notified in advance to the Commission.	

Article 17 Reporting on production, import, export and destruction 1. By 31 March 2014 and every year after that, each producer, importer and exporter that produced, imported or exported more than 1 000 tonnes of CO2 equivalent of fluorinated greenhouse gases and gases listed in Annex II during the preceding calendar year shall report to the Commission the data specified in Annex VII on each of those substances for that calendar year. 2. By 31 March 2014 and every year after that, each undertaking that destroyed more than one metric tonne or 1 000 tonnes of CO2 equivalent of fluorinated greenhouse gases and gases listed in Annex II during the preceding calendar year shall report to the Commission the data specified in Annex VII on each of those substances for that calendar year. 3. By 31 March 2014 and every year after that, each undertaking that placed more than 10 000 tonnes of CO2 equivalent of fluorinated greenhouse gases and gases listed in Annex II contained in products or equipment on the market during the preceding calendar year shall report to the Commission the data specified in Annex VII on each of those substances for that calendar year. 4. Each undertaking which, under paragraph 1 and 3, is to report on the placing on the market of more than 10 000 tonnes of CO2 equivalent of hydrofluorocarbons during the preceding calendar year shall by 30 June 2014 and every year after that, ensure that the accuracy of the data is verified by an independent auditor, accredited pursuant to Directive 2003/87/EC12 or accredited to verify financial statements in accordance with the legislation of the Member State concerned. The undertaking shall keep the verification report for at least five years. The verification report shall be made available to the competent authority and the Commission on request. 5. The Commission shall be empowered to adopt **delegated acts** in accordance with Article 20 amending the thresholds for the obligations provided for in paragraphs 1, 2 and 3 where appropriate, in view of the development of the market, to avoid that substantial quantities of fluorinated greenhouse gases produced, imported or exported are not monitored or to reduce administrative burdens in cases where the quantities reported are insignificant.	We propose a change to reporting on destruction: 17(2) It should be possible to report destructed substances also as a mixture. For the destructing company it might be difficult to know the exact quantities of each substance it is destructing, if it e.g. receives the substances as a mixture from an undertaking that collects them form end-users (experience from the implementation of the Ozone regulation). Therefore we suggest a change to Annex VII 4(i): (i) quantities of each substances destroyed , either as individual substances or total amount of destroyed substances including quantities contained in products or equipment

6. The Commission may determine, by means of **implementing acts**, the format and means of submitting the reports referred to in this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21. 7. The Commission shall take appropriate measures to protect the confidentiality of the information submitted to it in accordance with this Article.	
Article 18 Collection of emissions data	We propose that Article 18 would be re-inserted. The text proposed by the Commission should be modified so that reporting on emissions of F-gases would be required but the future regulation concerning monitoring and reporting of greenhouse gas emissions would provide the framework for reporting.
Article 19 Review 1. The Commission shall be empowered to adopt **delegated** acts in accordance with Article 20 amending Annex I to include, in the list, substances with a significant global warming potential that are used as replacement for substances already listed in that Annex and that are exported, imported, produced or put on the market in significant quantities. 2. The Commission shall be empowered to adopt **delegated acts** in accordance with Article 20 updating Annexes I, II and IV on the basis of new scientific findings, in particular on the global warming potential of the listed substances. 3. On the basis of information on the placing on the market reported in accordance with Article 17 and on emissions of fluorinated greenhouse gases made available in accordance with Article 18(2), the Commission shall monitor the application and effects of this Regulation. No later than 31 December 2024, it shall publish a comprehensive report on the effects of this Regulation, including a forecast of the continued demand for hydrofluorocarbons after 2030.	We are concerned about the proposed delegated acts in Art 19: 19(1) The list of substances can be considered as an essential element of the legislation. 19(2) What kind of updates would be possible? If a delegated act were to be accepted, it should be defined more clearly. If only GWP values would be changed based on new IPPC assessments, a delegated act could be acceptable

Article 20 Exercise of the delegation 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article. 2. The power to adopt delegated acts referred to in Articles3(4), 7(2), 8(7), 9(3), 10(7), 13(4), 14(6), 17(5), 18(3) and 19(1) and (2) shall be conferred on the Commission for a period of **5 years from** [dd/mm/yyyy] [*insert date of entry intoforce of this regulation*]**. By [dd/mm/yyyy], the Commission shall draw up a report in respect of the delegation of power. The delegation of power shall be tacitly extended for further periods of 5 years, unless the European Parliament or the Council opposes such extension not later than 3 months before the end of each such period.** 3. The power to adopt delegated acts referred to in Articles 3(4), 7(2), 8(7), 9(3), 10(7), 13(5), 14(6), 17(5), 18(3) and 19(1) and (2) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or on a later date specified therein. It shall not affect the validity of any delegated acts already in force. 4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council. 5. A delegated act adopted pursuant to Articles 3(4), 7(2), 8(7), 9(3), 10(7), 13(4), 14(6), 17(5), 18(3) and 19(1) and (2) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.	

Article 21 Committee procedure (no changes to COM proposal) 1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011. 2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.	
Article 22 Penalties 1. Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify those provisions to the Commission by [**31/12/2015**] [*date of entry into application*] at the latest and shall notify it without delay of any subsequent amendment affecting them. 2. In addition to the penalties referred to in paragraph 1, undertakings that have exceeded their quota for placing hydrofluorocarbons on the market, allocated in accordance with Article 14(5) or transferred to them in accordance with Article 16, may only be allocated a reduced quota allocation for the allocation period after the excess has been detected. The amount of reduction shall be calculated as 200 % of the amount by which the quota was exceeded. If the amount of the reduction is higher than the amount to be allocated in accordance with Article 14(5) as a quota for the allocation period after the excess has been detected, no quota shall be allocated for that allocation period and the quota for the following allocation periods shall be reduced likewise until the full amount has been deducted.	

Article 23 Repeal Regulation (EC) No 842/2006 shall be repealed. **However, Commission Regulations [1497/2007,] [1516/2007,] 303/2008, 304/2008, 305/2008, 306/2008, 307/2008 and 3084/2008 shall remain in force and continue to apply unless and until repealed by Commission [delegated or] implementing acts adopted pursuant to this Regulation.** References to the repealed Regulation **842/2006** shall be construed as references to this regulation and shall be read in accordance with the correlation table in Annex VIII.	
Article 24 Entry into force (no changes to COM proposal) This Regulation shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Union*. It shall apply from 1 January 2014. This Regulation shall be binding in its entirety and directly applicable in all Member States.	
Annex I Fluorinated greenhouse gases referred to in Article 1 point (1)	We are open to the proposal made by Denmark to move the substances HFC-1234yf and HFC-1234ze listed in Annex II, section 1: Unsaturated hydrofluorocarbons to Annex I, section 1: hydrofluorocarbons (HFCs). PFC-9-1-18 is listed in the IPCC fourth assessment report and it should be included in either Annex I or Annex II.
Annex II Other fluorinated greenhouse gases subject to reporting in accordance with Article 17	

Annex III Placing on the market prohibitions referred to in Article 9(1) **Additions in PRES proposal:** 13. New stationary refrigeration equipment that contains, or that relies upon for its functioning, HFCs with GWP of 2500 or more, except equipment intended for applications < -50°C. 1 January 2020 14. New mobile refrigeration equipment that contains, or that relies upon for its functioning, HFCs with GWP of 2500 or more 1 January 2025	We welcome the addition of bans 13 and 14 to complement the servicing ban in Art 11. In addition to these, we propose an additional ban on the use of HFC's in foams from e.g. 2015.
Annex IV Method of calculating the total global warming potential of a mixture referred to in Articles 9(1) and 11(3)	
Annex V Calculation of the maximum quantity, reference values and quotas for placing hydrofluorocarbons on the market	
Annex VI Allocation mechanism referred to in Article 14	
Annex VII Data to be reported pursuant to Article 17	Suggested change to Annex VII, 4 (i): (i) quantities of ~~each~~ substances destroyed , either as individual substances or total amount of destroyed substances including quantities contained in products or equipment
Annex VIII Correlation table	

SWEDEN

1.1. SE comments on the Commission´s proposal for a regulation on fluorinated greenhouse gases (f-gases)

Suggested changes and explanations are presented in **bold and underlined** and *italics* text respectively and proposed deletions are denoted by ~~strikethrough~~.

Objective

The objective of this Regulation is to protect the environment by reducing emissions of fluorinated greenhouse gases, and by the adoption of related ancillary measures. Accordingly, this Regulation lays down rules on containment, use, recovery and destruction of fluorinated greenhouse gases, and prohibits specific uses of these gases **and the placing on the market of specific products and equipment**, whilst setting out quantitative limits for the placing on the market of hydrofluorocarbons.

Justification: The additional text clarifies the scope by explicitly referring to the prohibition of products and equipment as set out in Article 9 and Annex III, which is an important element of the Regulation.

Article 1

19. 'mobile' means normally in transition during operation **and refers to modes of transportation including cars, vans, lorries, trains, aeroplanes and ships.**

Justification: The proposed amendment makes clear the intended scope of the definition.

Article 3

We propose to amend paragraph 1 as follows:

stationary **and mobile** refrigeration equipment;

stationary **and mobile** air-conditioning equipment;

Justification: To ensure the environmental integrity of the Regulation, all mobile equipment should be included. In particular, there are significant merits in extending containment to the maritime sector and to trains. The COM impact assessment and preparatory study show that extending containment to the maritime sector is cost-effective and achieves a reduction in HFC-emissions. In Sweden, maritime transports are regulated since the early 90s.

Regarding the delegated act in paragraph 4:

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 20 specifying requirements for the leakage checks to be carried out in accordance with paragraph 1 of this Article for each type of equipment referred to in that paragraph, identifying those parts of the equipment most likely to leak, ~~and amending the list of equipment in paragraph 1 of this Article to include other types of equipment in the light of market trends and technological progress.~~

Justification: We object to the final part of this paragraph, empowering the Commission to adopt delegated acts amending the list of equipment in paragraph 1 of this article. The list of equipment to which this paragraph refers, determines the scope of the Article and can be seen as an essential element of the legislative act, not to be delegated. But even if this objection would not exist, we would question this part of article 3 (4) on grounds of necessity; amendments of the list of equipment will normally not have to be done in such great haste that the ordinary legislative procedure can be considered to be too time-consuming. Finally, we object to the wording of the delegation – "in the light of markets trends and technological progress" is too vague and does not clearly state under which circumstances the delegated powers may be used.

Article 7

Paragraph 1 (c) should also include "fire extinguisher", as proposed by the Commission:

fire protection equipment **and fire extinguishers**

This also applies to article 10 paragraph 1 (d). The Presidency has indicated that it is looking into alternative ways of incorporating fire extinguishers and we are open to consider any proposal that maintain the stringency of the Regulation.

We propose to delete paragraph 2:

2. ~~The Commission shall be empowered to adopt delegated acts in accordance with Article 20 amending the list of equipment in paragraph 1 to include other types of equipment in view of their increasing relevance due to the commercial or technological development.~~

Justification: We object to this paragraph on the same grounds as mentioned above regarding article 3 (4); The list of equipment determines the scope of the Article and can be seen as an essential element of the legislative act, not to be delegated. We also question this part article on grounds of necessity; we have not identified potential new equipment containing fluorinated gases which might be added to the list. Even if such a need should arise, amendments of the list of equipment will normally not have to be done in such great haste that the ordinary legislative procedure can be considered to be too time-consuming. Finally, we object to the wording of the delegation – "in view of their increasing relevance due to the commercial or technological development". Although this wording seems better than the wording in article 3 (4) commented above, it still does not give a sufficiently clear frame for the delegation op powers, a problem which is actually increased by the fact that articles 3(4) and 7(2) use different wordings.

Article 8

We propose to delete all references to training and, where appropriate, replace them with certification, as follows:

~~Training and c~~C*ertification*

1. Member States shall establish **~~training and~~** certification programmes for the following persons:

(…)

2. The ~~training~~ **certification** programmes provided for in paragraph 1 shall cover the following:

(…)

3. ~~**Certificates under the certification programmes provided for in paragraph 1 shall be issued on condition of the applicant having completed a training programme established in accordance with paragraphs 1 and 2.**~~

(…)

5. The certificates provided for in paragraph~~s~~ 1 ~~**and 3**~~ shall be valid for a maximum of 5 years. ~~**Member States may prolong the validity of the certificates provided for in paragraph 1 when the person concerned is undergoing a compulsory periodic training every five years to update the knowledge on the subjects referred to in paragraph 2.**~~

6. Member States shall notify the Commission of their ~~training and~~ certification programmes by 1 January ~~**2015**~~ **2017**. They shall recognise certificates issued in another Member State. They shall not restrict the freedom to provide services or the freedom of establishment because a certificate was issued in another Member State.

7. The Commission shall be empowered to adopt delegated acts in accordance with Article 20 specifying minimum requirements for the ~~**training and**~~ certification provided for in paragraph 1 and specifying conditions for the mutual recognition of certificates.

(…)

Justification: What matters is that persons and companies demonstrate sufficient knowledge, and this can be achieved through certification. Experience is equally important to formal training. Given the requirements for certification, it is for the market to provide training schemes, not Member States as such.

Article 9

We propose to delete paragraph 3:

3. ~~The Commission shall be empowered to adopt delegated acts in accordance with Article 20 amending the list set out in Annex III to include other products and equipment that contain fluorinated greenhouse gases with a global warming potential of 150 or more, or that rely on them to work, if it has been established that alternatives to the use of fluorinated greenhouse gases or to the use of specific types of fluorinated greenhouse gases are available, and their use would result in lower overall greenhouse gas emissions and to exclude, where appropriate for a specified period of time, certain categories of products or equipment for which alternative substances which fall below the specified global warming potential limit are not available for technical, economic or safety reasons~~.

Justification: We object to this paragraph because the list of products and equipment determines the scope of the Article and can be seen as an essential element of the legislative act, not to be delegated. We also more specifically object to the final part of this paragraph, regarding amendments to the list in order to exclude certain categories of products of equipment. Giving the Commission the power to exclude products from the scope of the prohibition in this article because, for example, alternatives are not available for economic reasons, could defy the purpose of the prohibition in this Act. It also raises the question whether products and equipment in the current list have been put there without an assessment of the technical, economic and safety aspects.

Article 12 – Pre-charging of equipment

Comment: We support the proposal to ban pre-charged equipment 3 years after entry into force of the regulation so as to address the growing number of systems that are not installed by certified companies despite a legal obligation to do so. However, we are concerned that the proposal will not solve the problem in its entirety. Unless all aerosols cans are prohibited on the EU market there is a risk that a large number of actors buying aerosol cans from one place and the empty equipment from another place to install the equipment themselves in order to bypass the requirements and therefore all aerosols cans should be prohibited on the EU market. We propose a ban of all aerosols, with exemptions for those defined for medical or safety reasons, in Annex III para 9.

Article 13

The wording "*in the light of development of the market"* in paragraph 4 (a) needs to be changed, otherwise we suggest that 13.4 (a) is deleted:

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 20

~~(s) amending the maximum quantities set out in Annex V in the light of developments of the market in hydrofluorocarbons and related emissions; and~~

Justification: We object to this subparagraph because the gradual reduction of hydrofluorcarbons in accordance with the percentages and quantities in Annex V is an essential element of this legislative Act. We also object to the wording of the delegation in this subparagraph – "in the light of developments of the market…" is too vague and basically implies a carte blanche for the Commission to change the quantities.

Article 17

The time frame in paragraph 3 and 4 is too tight. We suggest to change the deadline to 31 March 2015.

Article 19

We propose to reintroduce the following sentence in paragraph 3:

> No later than 31 December 2020, the Commission shall publish a report on the availability of hydrofluorocarbons on the Union market, in particular for medical applications.

Annex III – Placing on the market prohibitions referred to in Article 9(1)

The ban should cover all aerosols, not only novelty aerosols, as well as foams. Also, we propose to introduce bans on cargo ship air-conditioning.

9. Aerosol generators marketed and intended for sale to the general public for entertainment and decorative purposes, as listed in point 40 of Annex XVII to Regulation (EC) No 1907/2006, and signal horns that contain HFCs with GWP of 150 or more. **All other aerosols with the exception of those used for medical and safety purposes.**	4 July 2009 **1 January 2017**

(…)

13. Foams containing HFCs	**1 January 2017**
14. Air-conditioning equipment in cargo ships that contain HFCs *(Same as AM 49 in the EP draft report)*	**1 January 2020**

Justification: The ban on aerosols and foams would significantly strengthen the Regulation and limit emissions of f-gases. It is also a necessary complement to the ban on pre-charged equipment in Article 12 which addresses the growing number of systems that are installed by individuals rather than certified companies; unless all aerosols cans are prohibited on the EU market there is a significant risk that people will buy aerosol cans from one place and empty equipment from another place and install the equipment themselves in order to bypass the requirements, with significant leakages as a result. As regards AC equipment on cargo ships, the COM impact assessment and the preparatory study show that a ban is cost-effective and achieves clear reductions in HFC emissions from cargo ship air-conditioning, with penetration rates reaching 100% in 2020.

UNITED KINGDOM

The UK welcomes the revised text proposal prepared by the Presidency on the 27 February 2013 that provides greater clarity in places and introduces some welcome changes. We are also grateful for the opportunity to provide written comments on the Presidency's draft following a full read through of the text during Working Party meetings in March. We maintain a general scrutiny reserve on the proposal as a whole, as well as a Parliamentary Scrutiny reserve.
The UK has already submitted detailed comments on the Commission's proposal (13 December 2012 and 18 February 2013), many of which have been addressed in the Presidency text. However, there are a number of areas where earlier comments have not been reflected in the Presidency text and also a number of issues that we would now like to raise on the Presidency text more generally now that we have had a chance to carry out a more detailed consideration of the text. These are set out below.

Specific Comments and Issues

Objective

We welcome the inclusion of Article 0 but have concerns that the current wording is quite broad. The equivalent scope provision in the 2006 Regulation is quite a bit more detailed than what has been given here. There are no references to any specific provisions in the Regulation. Without re-introducing something like that, it should be possible to make it clear that the scope of the Regulation is linked to the specific measures that it already provides.
We have some suggested wording (below) that tweaks the first sentence, stating the objective, to change the reference to the measures themselves before specifying in more detail what those measures are. Whilst this inevitably loses some of the brevity of what was proposed by the Council Legal Service, our suggested wording ensures the scope is clearly defined.
Furthermore, in line with comments raised by a number of other Member States during the Working Party meetings, we are not convinced that it is necessary to mention "ancillary measures" here. The objective/scope concerns what is covered by the legislation rather than the procedures for how this is done. Furthermore, its use here may suggest something broad enough to include delegated and implementing acts as well as other non-legislative measures.

Suggested new wording –

'The objective of this Regulation is to provide measures for protecting the environment by reducing emissions of fluorinated greenhouse gases. Those measures are rules on: intentional releases of fluorinated greenhouse gases into the atmosphere; the containment of fluorinated greenhouse gases used in certain types of equipment; emissions of fluorinated greenhouse gases by producers of fluorinated compounds; the recovery and destruction of fluorinated greenhouse gases by operators of certain types of equipment; the placing on the market and labelling of specific products and equipment containing or utilising fluorinated greenhouse gases; the labelling of specific products and equipment containing or utilising fluorinated greenhouse gases; the use of specific types of fluorinated greenhouse gases; quantitative limits for the placing on the market of certain types of hydrofluorocarbons; the training and certification of persons involved in activities covered by this Regulation; and the reporting of certain data connected with the requirements of the Regulation.

Article 1 – Definitions

We have picked up a number of typos and suggested corrections to a number of the definitions and these have been reflected in red below as well as some comments related to the wording in some of the definitions as follows:

For the purposes of this Regulation the following definitions shall apply:

1. 'fluorinated greenhouse gases' means ~~the~~ hydrofluorocarbons ("HFCs"), perfluorocarbons ("PFCs"), sulphur hexafluoride ("SF6") and other greenhouse gases that contain fluorine,**as** listed in Annex I, **or mixtures containing any of these substances.** ~~whether alone or in a mixture~~;

2. 'hydrofluorocarbons (HFCs)' means substances listed in section 1 of Annex I, or mixtures containing any of these substances

4. 'sulphur hexafluoride (SF6)' means the~~is~~ substance, listed in section 3 of Annex I, or mixtures containing this substance

10. 'placing on the market' means supplying or making available to another party in the Union for the first time, for payment or free of charge, or using for its own account in the case of a producer, or importing into the customs territory of the Union under a customs procedure that allows use or operation of the imported goods in the Union;

Comment – The reference to "for the first time" may make it unclear how the placing on the market restrictions apply to recycled and reclaimed F gases. If we want the same restrictions to apply to these then we may need some wording in here to clarify that.

20. 'stationary' means not **normally** ~~in motion~~ **in transit** during operation **and includes portable equipment**

24. 'undertaking' means any natural or legal person who:

a) **produces, recovers, recycles, reclaims, uses or destroys fluorinated greenhouse gases;**

b) **imports or exports such gases; Comment –** because import and export aren't defined, we need to be clear whether this is import/export from the EU or between Member States.

c) **places such gases on the market;**

d) **installs, services, maintains, repairs or decommissions equipment containing such gases; or**

e) **is the operator of equipment which contains such gases**

25. 'commercial use' means used for the storage, or **display or dispensing of products, for sale to end users, in retail and food services;**

Comment – The term is only used once in Annex III, line 11 which also purports to define commercial use. The reference in Annex II therefore needs to be changed to simply read "commercial use".

26. 'leakage detection system' means a calibrated mechanical, electrical or electronic device for detecting leakage of fluorinated greenhouse gases from products or equipment **which upon detection alerts the operator;**

27. 'feedstock' means any fluorinated greenhouse **gas that undergoes chemical transformation in a process in which it is entirely converted from its original composition and its emissions are insignificant**;

Missing definitions – the following definitions should be added:
"installation" *means joining two or more pieces of equipment or circuits containing or designed to contain fluorinated greenhouse gas refrigerant, with a view to assembling a system in the location where it will be operated, including the action by which refrigerant conductors of a system are joined together to complete a refrigerant circuit irrespective of the need to charge the system after assembly.*

"maintenance or servicing" *means all activities, excluding recovery and checks for leakage as defined in Articles [xxx] and [xxx] of Regulation (EC) No [xxx] respectively, that entail breaking into the circuits containing or designed to contain fluorinated greenhouse gases, in particular supplying the system with fluorinated greenhouse gases, removing one or more pieces of circuit or equipment, reassembling two or more pieces of circuit or equipment, as well as repairing leaks.*

*"**producer"** means the natural or legal person that produces one or more fluorinated greenhouse gases for commercial purposes and places one or more fluorinated gases on the EU market – Please note that there are some issues relating to this definition and the definition of Community co-producer in Regulation 1493/2007 (reporting) that we believe need to be addressed. These issues may be addressed through amendments to Article 14, Annex VI and Article 16. These amendments are set out in the relevant Article/Annex numbers further on in this note.*

*"**importer"** means the natural or legal person that imports one or more fluorinated greenhouse gases for commercial purposes and places one or more fluorinated greenhouse gases on the EU market.*

*"**medical applications"** include metered dose inhalers for the delivery of pharmaceutical ingredients, and other medicinal uses covered by medicinal products for human use within the scope of Regulation EC 726/2004 and Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use"*

There also needs to be a definition of "virgin substance" and we suggest using the definition from the ODS Regulations which reads as follows:
"virgin substances" *means substances which have not previously been used;*

There should also be a definition of "switchgear" but we don't have any suggested wording for such a definition at this stage.

Article 2 - prevention of emissions
We welcome the changes made by the Presidency to establish better links between Articles 2 and 8 and drafting inconsistencies (e.g. in the case of certification for mobile equipment) that have now been addressed.

2(3) – We suggest adding the following wording:

Where a leakage of those gases is detected, the operators shall ensure that the equipment is repaired **as soon as possible and, in any event, within 14 days** *of the detection of the leak.*

Furthermore, in our comments submitted in February, we advised that in the case of electrical switchgear containing SF_6, if a leak is detected the end-to-end process from discovery of the leak through to repair for transmission switchgear is normally greater than 14 days. This could be as a result of:

a. Difficulties in determining the exact point of leakage

b. Duration of repair

c. Finding an appropriate window to take equipment out of service without impacting on UK security of supply. There is a requirement on National Grid to meet the Security and Quality of Supply Standards (SQSS).

We would therefore suggest the following wording be added as a new provision after Article 2(3):
"Where a leakage of those gases is detected in electrical switchgear, the operators shall ensure that a robust management procedure is put in place to ensure that the equipment is repaired without undue delay and that the level of action taken is proportionate to the environmental impact of the release"
2(4) – sub-paragraph 1 – Article 8(1) no longer includes switchgear meaning there is no duty for persons to be certified or to take precautionary measures to prevent leakage. We therefore suggest the reinsertion of the previous reference in Article 8 to switchgear.
2(4) – sub-paragraph 2 – this needs further work. As currently drafted, this implies certification for undertakings who install, service, maintain, repair or decommission mobile a/c equipment. As previously raised during earlier meetings and in our written comments (and voiced by a number of other Member States) we would prefer to see this restricted to the most relevant sectors as is the case under the existing regulatory regime. This can be addressed by restricting the scope to activities referred to in Article 8(1) (a) to (d) (assuming the reinsertion of the switchgear reference and would read as follows:
Undertakings carrying out the activities mentioned in Article 8(1)(a) to (d), for other parties, shall be certified in accordance with Article 8(4) and shall take precautionary measures to prevent leakage of fluorinated greenhouse gases

A similar amendment would also be required for Article 8(4) and we have addressed that under Article 8 comments later on.

Article 3 - checking for leakage
3(1) – we still want to ensure that sufficient transitional periods are put in place to enable the switch to the new size bands to be fully implemented.
We also suggest a slight textual change as follows:
"Operators of equipment that contains fluorinated greenhouse gases with a global warming potential equivalent to 5 tonnes of CO2, or more, not contained in foams shall ensure that the equipment is checked for leakage. However, equipment with hermetically sealed equipment systems or equipment sealed upon installation which are labelled as such, ~~and containing~~ that contain fluorinated greenhouse gases with a global warming potential equivalent to less than 10 tonnes CO2, shall not be subject to leak checks under this Article, provided such equipment is labelled as hermetically sealed or sealed upon installation"

3(4) – we don't believe a power to amend the list of equipment in paragraph 1 is needed. The list is fairly comprehensive in any case and we are unsure what the Commission envisage may need to be added here.

Article 4 – leakage detection systems

4(1) - We would like to clarify whether this applies to new equipment or existing equipment? If it is new equipment, we understand the costs of retrospectively fitting an automatic detection system to existing electrical switchgear may be disproportionate.

Article 7 - recovery

7(2) – in line with comments made relating to Article 3(4) we don't believe this power is necessary. What other types of equipment do the Commission imagine this may be needed for? There is also a risk that this is amending essential elements of the act which would mean the delegated act power is not available.
7(4) – again, we think that the redrafting has improved this Article. However, in relation to 7(4), whilst this removes the ambiguity under the existing Regulations regarding the use of "appropriately certified personnel", the current drafting seems to imply that recovery of F gases from other products and equipment not listed in paragraph 1 does not require any certification. Is this the intention?

Article 8 - Training and Certification

The changes proposed are welcome in terms of mandatory training but further work is needed to ensure a consistent approach to training and notification of certification programmes throughout the Article. Furthermore, we still have a number of questions and concerns regarding this Article.
8(2) – first paragraph – we believe the reference to training programmes should be deleted here and replaced with "certification programmes and evaluation processes". It is the certification and evaluation programmes that should cover the aspects listed in 2(a) – (e). Training would then logically be based on these certification/evaluation requirements but it isn't necessary to state that here. This also provides better linkages with Article 3 that deletes training programmes and refers to an evaluation process.

8(2)(b) – as indicated under Article 2(4), we would suggest keeping the reference to persons working on switchgear.

8(2)(e) – as we have stated in previous comments, we believe that the proposal to extend the scope to cover the alternative technologies is well intentioned but we need to better understand the Commission's intentions and what this would mean in practice. We share the concerns expressed by a number of other Member States during the Working Party meetings that a requirement to establish training programmes for such technologies would be an unwelcome burden.

We maintain our view that requiring personnel to undertake training on "alternative technologies" would not be quick or cheap. If this provision is to remain then there needs to be further clarity on what exactly the training will involve (e.g. will it be principally theoretical or will there be a practical element to the training?). We also remain concerned that this has the potential to interfere with national vocational training.

We continue to maintain our position that substantial changes to the existing training and certification requirements would be costly and unacceptable.

8(3) – we welcome the deletion of the mandatory training requirement.

8(4) – along with a number of other Member States, we have previously raised concerns regarding the scope of this provision. As drafted, certification would be required by undertakings working on mobile air conditioning and electrical switchgear. We are against such a widening of the scope and would prefer to restrict it to the most relevant sectors as is the case under the current Regulation. We would therefore suggest the following:

Member States shall establish certification programmes for undertakings carrying out the activities mentioned in paragraph 1, points (a) to (d)

The suggestion above assumes that the switchgear provision is retained rather than deleted.

8(5) – whilst the proposed change seems to address existing certificates, it doesn't say anything about conditions for new certificates or how long they do or don't need to be valid for. In line with previous comments on this issue, we would support the comments made by the Czech Republic that the current system allowing Member States to decide whether to apply an expiry date or not should be maintained.

8(5.bis) – we would like to understand what this evaluation process will involve and what technologies it will cover given the wide range of alternative technologies that exist. We also believe it is illogical to send personnel on training for alternative technologies that most will never probably use or encounter in their daily work. Any requirement therefore needs to be much clearer in terms of what the evaluation involves and also needs to reflect the split between personnel working on the different types of equipment (e.g. small commercial, medium to large size commercial and industrial equipment).

8(6) – Member States don't currently have to notify the Commission of their training, only of the certification programmes that meet the minimum Commission requirement and therefore qualify for the mutual recognition provisions. We would therefore suggest the deletion of "and training" here.

8(7) – as per previous comments related to training set out above, we don't believe the Commission should specify minimum requirements for training. The wording should instead refer to "certification programmes and evaluation processes".

Article 9 and Annex III - restrictions on the placing on the market

9(3) – We maintain our concerns regarding the delegated acts that enable the Commission to amend the list set out in Annex III. Industry needs a sufficiently long planning horizon and the current provision would create legal uncertainty. If such a provision is to remain then the wording needs to recognise and account for the feasibility of replacements for products and equipment which should be proven, safe and energy efficient technologies.

In addition, we feel the second part of 9(3) should be amended to become a separate critical use exemptions. This would provide an exemption for a specified period of time from the bans set out in Annex III and would apply in cases where the continued use of fluorinated gases is needed for technical, economic or safety reasons and where no suitable alternatives exist (e.g. fire suppression in military uses and aviation or other niche applications). A consequential amendment would be needed in Article 11 to allow the continued servicing and maintenance of equipment exempted under this provision for a specified period of time. This makes the process a lot clearer than opting for the route of exemptions introduced via delegated acts. We therefore suggest the following wording for such a provision:

The Commission may, following a request by a competent authority of a Member State, by means of implementing acts authorise a time-limited exemption to exclude certain categories of products or equipment listed in Annex III where alternative substances are not available or cannot be used for technical, economic or safety reasons. Those implementing acts shall be adopted in accordance with the examination procedure in Article 21.

9(4) – the reference in Article 8(1)(d) of the Presidency text means that if an undertaking wants to sell F gases to another undertaking for the purposes of carrying out servicing of MAC equipment, both the seller and the buyer must have a certificate in accordance with 8(4). Our proposed amendments to 8(4) above would not require a certification programme to be established for undertakings dealing with MAC equipment. The following wording should clarify that we aren't imposing a certification obligation for such undertakings whilst retaining the obligation for personnel undertaking the relevant activities on mobile air conditioning equipment:

For the purposes of carrying out the activities referred to in Article 8(1) (a) to (d) fluorinated greenhouse gases shall only be sold to and purchased by undertakings that hold the relevant certificate, where applicable, in accordance with Article 8(4) and persons that hold the relevant certificates in accordance with Article 8(1).

We also suggest the addition of a new second sub-paragraph here to clarify that the obligation doesn't prevent non-certified personnel from transporting, collecting or delivering F gases. The wording would be as follows:

This paragraph shall not prevent persons who are not certified because they do not carry out the activities in Article 8(1) (a) to (e) from collecting, transporting or delivering fluorinated greenhouse gases.

Article 10 - labelling and product information

10(2) – subparagraph 2 - suggest the following amended wording:

Where applicable, that the fluorinated greenhouse gases are contained in hermetically sealed equipment or equipment sealed upon installation.

10(2)(3) – is there a requirement for the label to be in any particular language?

10(2)(4) - suggest the following amended wording in relation to the first sub-paragraph:

Foams that contain fluorinated greenhouse gases shall not be placed on the market unless the fluorinated greenhouse gases are identified on the product or equipment in which they are contained with a label using the accepted industry designation or, if no such designation is available, the chemical name. The label shall clearly indicate that the foam contains fluorinated greenhouse gases.

10(4.bis) – we suggest the following amended wording:
Products and equipment containing reclaimed fluorinated greenhouse gases must also be labelled with an indication that the substance has been reclaimed and information on the batch number and the name and address of the reclamation facility.
We were also unsure whether there will always be a batch number if this is being done "in-house"?
10(5) – should this also refer to 4bis and does all this information set out here need to be included in the advertising?
10(7) - this power is very wide and raises questions about amending essential elements of the basic act. If it is to stay then further redrafting is needed.

Article 11- control of use

11(1) – the wording in the second sentence could be taken as apply to sand casting and sand casting alloys. This could be problematic as there are not always suitable, non-toxic alternatives to SF6 available for such processes. We would therefore suggest the following alternative wording to make this clear:

The use of SF6 in magnesium die-casting and in the recycling of magnesium die-casting alloys shall be prohibited. As regards installations using a quantity of SF6 below 850 kg per year ***in respect of magnesium die-casting or the recycling of magnesium die-casting alloys****, this prohibition shall only apply from 1 January 2015.*
11(3) - we welcome the changes that have been made in relation to the ban on the use of F gases with a GWP of 2500 or more for servicing and maintaining refrigeration equipment and see this as a much more positive proposal. However, we believe that there is still some further work to do in order to fine tune the proposed approach, specifically in relation to the following points:

- In our written comments submitted in February, we suggested exempting the ban for equipment intended for applications below - 50°C. However, following further advise, we are now considering if this is the right terminology and level to use. We understand there are differences between product temperature and refrigeration temperature and are currently exploring if there may be more suitable language we can use here that would cover the type of specialist equipment intended.

- We also believe that there should be some form of derogation for equipment that has been converted from ozone depleting substances to avoid placing a double burden on such equipment and effectively penalising those companies who have taken early efforts to meet their obligations under the ozone depleting substances Regulations. We would propose the following suggested wording to address this:

  The use of fluorinated greenhouse gases, or of mixtures that contain fluorinated greenhouse gases, with a global warming potential of ***2150*** *or more, to service or maintain refrigeration equipment with a charge size equivalent to 40 tonnes of CO2 or more, shall be prohibited from 1 January 2020. This provision shall not apply to equipment intended for applications < -50°C* ***or equipment converted to use F gases with a GWP above 2500 to meet commitments under the Ozone Depleting Substances Regulations.***

  Please note the above suggestion also reduces the GWP limit from 2500 to 2150 which was a suggestion from a number of Member States during the Working Party meetings. This should be feasible if the suggestion to exempt equipment converted from ODS can be agreed.

- We would also favour the introduction of a critical use exemption. This links with our suggestions made under Article 9(3) to introduce such a provision there. The suggestion below would introduce a related provision that allows for the continued servicing and maintenance of equipment with F gases with a GWP above 2500 for equipment exempted under Article 9(3) for a specified period of time:

  The Commission may, following a request by a competent authority of a Member State, by means of implementing acts authorise a time-limited exemption to exclude certain categories of products or equipment from the list in Annex III where alternative substances are not available or cannot be used in those products or equipment for technical, economic or safety reasons. Those implementing acts shall be adopted in accordance with the examination procedure in Article 21.

Annex III – Placing on the market prohibitions referred to in Article 9(1)

We previously suggested a new line 13 and 14 to complement the new approach for the servicing ban. Our suggested wording referred to "new" stationary and "new" mobile equipment. In line with other Member States, we agree that there is no need to include the word "new" in lines 13 and 14 of Annex III.

Article 12 - Pre-charging of equipment

This provision remained unchanged in the Presidency text and we believe there is still a lot of work to be done. We have particular concerns about the following issues:

Extra costs associated with a pre-charging ban

The following steps add to the cost if a pre-charge ban is implemented:

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).

It is quite hard to quantify some of the above 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. However, it is possible to estimate some order of magnitude costs which suggest the extra costs for a pre-charge ban to be in the order of €300 million to €400 million per year for the EU. 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.
For item (e), energy efficiency impact, if we assume that 10% of systems were incorrectly charged and that this caused a 10% drop in efficiency, the cost impact of the extra energy used would be in the order of € 1,000 million per year by 2030. These costs would ramp up from zero in 2017 (as all systems in the "bank" of equipment will be pre-charged) to € 1,000 million per year when the whole bank has been renewed with site charged systems (by around 2030).
These costs will need to be paid by companies or individuals that are installing new air-conditioning systems. Furthermore, it is reasonable to assume that 60 – 70% of the costs would fall upon the eight warmest Member States.
We doubt that these extra costs can be justified in terms of environmental benefit and it is becoming increasingly clear that the ban is being pursued purely to protect the phase-down. If this is truly the case then we need to ensure that all avenues for an alternative approach to protecting the integrity of the phase-down have been properly explored.

Understanding the sectors affected by the ban

It is very important to note that split systems and VRF systems require any refrigerant pipework to be installed on site. The other sectors (packaged a/c systems, small and medium chillers, domestic hydronic heat pumps, transport refrigeration and mobile air conditioning (MAC) in large vehicles) represent systems that are fully built in the factory and would not normally require any refrigerant handling carried out on site. In the case of this equipment it is normally filled in very controlled factory environments. With the pre-charge ban this situation will change and technicians installing equipment such as small chillers and domestic heat pumps would need to add refrigerant on-site which will probably lead to greater emissions.

The transport refrigeration and large vehicle MAC 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.
The split system air-conditioning market is dominated by imports. Most of the other sectors in the group identified in the paragraph above have far less imports – the pre-charging takes place within the EU and currently poses no risk to the phase-down, although there is a risk of a shift towards imports in an uncontrolled market.

Possibility of excluding certain sectors

During the Working Party meetings, we had therefore supported comments made by a number of other Member States to consider whether the ban could apply to certain parts of equipment and not to others. However, having carried out some further analysis in this respect, we cannot identify any sectors to exclude from the proposed ban to provide a meaningful simplification of the ban and reduction in costs.

Other options

We have seen a number of alternative options (from EPEE and most recently from Daikin) and we believe these need to be carefully considered. Whilst we are aware of the Commission's reluctance to establish and administer an import quota system for companies involved in the pre-charging of this equipment, we believe the enormous imbalance of costs shows that this, and other suggested alternatives, warrant further investigation. In particular, this could involve some market research to try and clarify the number of companies involved in the various market segments and then trying to establish market share. Based on this, options such as the establishment of a quota system could then be properly considered.

Article 13 and Annex V – Reduction of the placing on the market

We continue to remain supportive of an HFC phase-down in principle because of the climate benefits this will bring. However, as previously raised, and in line with comments made by a number of other Member States, we still have some concerns regarding the early reduction steps which may be too rapid and therefore difficult to achieve in full. We are currently undertaking further detailed analysis to remodel our earlier analysis of the phase-down steps and take account of factors such as the proposed servicing ban, the possible exemption of MDI's (detailed in comments relating to Article 13(4)(b) below) etc and that will include the possibility of having greater ambition during the later steps to still achieve the desired level of HFC reductions.

This analysis has not yet been completed but we hope to be in a position to discuss alternative approaches during the Working Party meetings in May.

We also still have concerns that there will be the need to exempt certain uses from the phase-down. We heard from the Commission during the Working Party meeting that specific exemptions are not required. However, we support comments made by other Member States during the Working Party meetings that there should be a clear exemption for medical applications that ensures availability for this critical use where no suitable alternatives exist. We would also support an exemption for use in feedstock applications where the use of HFCs has the same effect as destruction, as the substance is converted into other substances. We previously proposed some suggested text to address this as follows:

13(1) – as raised by ourselves and a number of other Member States during the Working Party meetings, we have concerns regarding the exemption that applies to producers and importers of less than a 1000 tonnes of CO2 equivalent and the potential loophole this introduces. We therefore need to consider if this limit should be lowered to, for example, 500 tonnes.
13(2) – we welcome the new additions made by the Presidency through the introduction of 2(a) – (d) but have the following points we would like to clarify:
This Article shall not apply to the following:

(a) hydrofluorocarbons imported into the Union for destruction;

(b) hydrofluorocarbons supplied for use in feedstock applications;

(c) hydrofluorocarbons supplied for direct export outside the Union;

Comment – "direct export" needs to be explained, particularly if it is distinguished from "subsequent export" in point (d) below.

(d) hydrofluorocarbons supplied for repackaging and subsequent export outside the Union.

Comment – is the distinction between supply and import here intentional?

Along with a number of other Member States, we would prefer a clear exemption for MDIs and we previously suggested this be included under Article 13(2). We would therefore suggest the following is added as a new (e) under 13(2):

(e) hydrofluorocarbons produced or imported into the Union for use in medical applications

13(4) – we would prefer to make the amendment of the maximum quantities of HFCs placed on the market part of the Review Article (Article 19) rather than the subject of a delegated act under this Article.

13(4)(b) - We are also considering there should be an exemption for critical uses, such as military uses or aviation where no suitable alternatives exist. This was the case for the critical use of halons and is in line with our suggestions for Article 9 and 11 and the suggestion from the Netherlands under Article 9.

Taking our comments on 13(4)(a) and (b), we would therefore suggest the deletion of the current wording in Article 13(4)(a) and (b) and its replacement with the following:

The Commission may, following a request by a competent authority of a Member State, by means of implementing acts authorise a time-limited exemption to exclude from the quota requirement laid down in Article 13(1) certain categories of products or equipment listed in Annex III where the use of hydrofluorocarbons is necessary for health and safety reasons and a sufficient supply would not otherwise be ensured. Those implementing acts shall be adopted in accordance with the examination procedure in Article 21.

Article 14 – allocation of quotas for placing hydrofluorocarbons on the market

We welcome the changes made by the Presidency to refer to "placing on the market" but continue to have some concerns regarding the wider operation of the allocation of quotas and how all of this will operate in practice. Whilst we are still developing our thinking in this respect, we are able to highlights specific concerns in relation to the following:

The currently proposed method of allocating quotas under the F Gas regulation review is based on incomplete and misleading information that will give inequitable results particularly to the detriment of certain companies

There are a small number of important companies throughout the EU who import, package, reclaim and distribute refrigerant gases. These companies also already offer the routes to market for all HFC alternatives and provide the essential reclaim services that the Producers do not offer. The availability of the services of such companies could be compromised by the proposed quota allocation systems which threatens their mainstream business.

As it stands at present the figures for the reference years that would form the basis for the quota allocations are taken from the annual returns made over those years to the Commission by Producers, Importers and Exporters. However, we have been advised that these returns do not provide sufficient detail to give accurate positions for each Producer, Importer or Exporter.

The reason for this is that there are certain companies, in all of the proposed reference years, whose exports exceed their imports. This can give the impression that such companies did not placed any imported product on the EU market during that time. However, this is misleading and incorrect impression. Whilst such companies certainly did import gases every year for packaging and re-export, they also imported gases for sale to customers in the EU (in considerable quantities in some of the reference years). Furthermore, these companies also purchased significant quantities of product from EU Producers/Importers that was subsequently exported. This information does not appear anywhere in the returns submitted to the Commission under Article 6 of the existing Regulation.

We are therefore concerned that the proposed approach regarding the allocation of quotas may be too simplistic a calculation. Based on the proposed system, companies that have previously imported product and placed it on the EU market in the reference years but have also exported product that has been produced or imported by someone else in the EU would not be entitled to a quota. At the same time, the activity of such companies would effectively increase the quotas of other EU Producers. This should not be the case and companies should not suffer simply because their trade is based upon them being a successful exporter.

We would like to propose the consideration of a fair and reasonable method of obtaining future quota allocations from the existing returns. This would require taking the totals of all the production and imports reported in the reference years and then subtracting the total exports for the same period, thereby providing an accurate figure of the total placed on the market in the EU. The individual company allocations should then be calculated on the basis of the relevant percentages of the original total production plus imports applied to the lower total figure of production plus imports minus exports divided by the number of reference years.

14(3) – we are still considering whether such a recalculation system would have perverse effects by encouraging producers and importers to maximize the quantities of HFCs they place on the market in order to ensure their future quotas are secured.

14(6) – it feels as though the mechanism for recalculations should already be known by this stage. This power also offers the Commission significant power with little scrutiny.

Article 15 – quota registry

15(1) – should there be a certain date included in here by which time the register needs to be set up? Businesses should be given sufficient time to be able to register.

Article 16 – transfer of quotas

How far in advance should transfers be notified?

Article 17 – reporting on production, import, export and destruction

17(1) and (2) - in line with earlier comments made under Article 13, we question whether the limit of 1000 tonnes of CO2 equivalent referred to in 17(1) and (2) is the right level or whether this figure should be lower (e.g. 500 tonnes)?

17(5) – this power is new and goes beyond what is in the current reporting requirements. We question the need for this here. The important thing is to set the threshold at the right place initially. We believe there is scope to make amendment of these thresholds part of the Review Article (Article 19) rather than the subject of a delegated act under this Article.

Article 18 – collection of emissions data

We support the deletion of this Article as we believe that the current reporting requirements under the UNFCCC and the MMR are sufficient and don't support the establishment of parallel reporting systems.

Article 19 - review

19(2) – if this is to be retained then the wording would need to be tightened up to ensure that it is not used to amend essential elements of the basic act.

19(3) – the reference to Article 18 needs to be deleted in line with the deletion of this Article in its entirety.

We believe there should be a new provision that links the review to changes to international commitments (e.g. under the Montreal Protocol). This would effectively mirror what is in Article 10(2)(l) of the existing Regulation and would read as follows:
Assess the need for further action by the Community and its Member States in the light of existing and new international commitments regarding the reduction of greenhouse gas emissions.

In line with earlier comments, we also suggest that the maximum quantities of HFCs placed on the market under Article 13 and the amendment of the reporting threshold under Article 17 be made subject to the wider review under this Article rather than the subject of a delegated acts under the respective Articles.

Article 20 – exercise of delegation

As raised in previous comments and throughout the various Articles, we are very concerned that there is excessive use of delegated acts in the proposal. There are ten delegated acts referred to in the Regulation (please note that there is no Article 13(5) (referred to in 20(3)). Any use of delegated acts can only relate to non-essential elements of the legislation. It should be clearly expressed and subject to the power of Council revocation, with a sufficient period for consultation of the Council in line with article 290 TFEU.

Article 21 – committee procedure

The Council legal Service referred to two different versions of this procedure, the one we have here and one that is used, for example, in the Priority Substances (PS) file. Like other Member States, we would support the version that is used in the PS file that includes a further sentence setting out what happens if there is no opinion - In line with Art 5(4) of comitology legislation (182/2011).We would welcome sight of that text to be included in the 2nd Presidency draft.

Article 22 – penalties

22(1) – the suggested date of 31/12/2015 is too early. Measures to fully implement all the necessary measures take time and we would suggest this is amended to 31/12/2016.

Article 24 – Entry into force

The repeal of the existing Regulation under Article 23 needs to be delayed until replacement provisions are ready to be brought into force in Member States. Even in areas where the revised Regulation is broadly the same, amendments will be required to existing legislation in Member States which will take further time.

Annex VII – data to be reported pursuant to Article 17

As raised in comments submitted in February, since it would be desirable to obtain information on feedstocks and medical applications we would suggest the addition of the following:

"the quantities of each substance it has consumed or supplied for feedstock applications"

"the quantities of each substance it has consumed or supplied for medical applications."