

ROADMAP

Title of the initiative:	Report and poss. proposal for revision of the Regulation on fluorinated greenhouse gases
Type of initiative (CWP/Catalogue/Comitology):	CWP
Lead DG/contact person/details:	CLIM.C.2
Expected date of adoption of the initiative (month/year):	December 2011
Date of modification:	
Version No:	1

Initial IA screening & planning of further work

A. Context and problem definition

(i) What is the political context of the initiative? (ii) How does this initiative relate to past and possible future initiatives, and to other EU policies?

Regulation (EC) No 842/2006 on certain fluorinated greenhouse gases (F-Gas Regulation) came into application in July 2007 and is further implemented by 10 Commission Regulations, adopted between December 2007 and April 2008, laying down the necessary technical elements. Article 10 of the F-Gas Regulation requires the Commission to publish a report based on the experience in its application, by 4 July 2011, evaluating in particular certain retrospective and prospective issues which are explicitly listed. Furthermore, the Commission is required to follow-up, where necessary, with legislative proposals. This overall review process must obviously be carried out against a background of an evolving EU and international policy outlook (in particular in the context of the Montreal Protocol).

What are the main problems identified?

Firstly, while the full impact of the F-Gas Regulation is expected to emerge from 2011 onwards when all implementing measures will be fully in place at Member State level, and while the attainment of the original 2010 target of the F-Gas proposal is under assessment, it can already be acknowledged that this target aimed to reduce projected baseline emissions (by 23 million tonnes of CO₂-eq in EU-15), which effectively meant a net increase of the 1995 emissions by about 10 million tonnes of CO₂-eq by 2010. In order to contribute to the updated EU GHG reduction target, further strengthening of the provisions may be necessary.

Secondly, the F-Gas Regulation may need to be adapted in order to be compatible with, and possibly to implement any potential new international commitments to reduce the production and consumption of HFCs or other F-Gases under the Montreal Protocol.

Thirdly, some of the Regulation's provisions may benefit from clarification where possible.

Who is affected?

Climate change affects not only all EU citizens but also the global population. This initiative would also be expected to have a direct effect on the Commission and the Competent Authorities of the Member States (implementation and enforcement aspects) as well as on the relevant sectors which include: approx. 11 enterprises producing F-Gases in the EU (mainly multinational companies), about 50 enterprises importing and exporting F-Gases into and from the EU as well as their sources/recipients internationally, enterprises manufacturing F-Gas containing products and equipment and their users (ranging from large enterprises to SMEs and individual consumers) as well as the servicing industry including those associated with relevant training and certification activities. Consumers are not expected to be directly affected.

(i) Is EU action justified on grounds of subsidiarity? (ii) Why can the objectives of the proposed action not be achieved sufficiently by Member States (necessity test)? (iii) As a result of this, can objectives be better achieved by action by the Community (test of EU Value Added)?

The issue at stake of this initiative is transnational and the objectives of the proposed action are linked to Article 192 (ex Article 175 TEC) and to Article 114 (ex Article 95 TEC) of the Treaty. The F-Gas Regulation respects fully the principle of subsidiarity and takes into account the need to

minimise distortions to the internal market by introducing a level-playing field for all enterprises affected. It introduces uniform marketing and use restrictions for certain products where containment of F-Gas emissions does not work or the use of F-Gases is considered inappropriate. It also provides Member States with the flexibility to implement other provisions, such as the training and certification programmes, in the light of their own national circumstances.

As a result, the objectives of this initiative can also be better resolved at EU level, compared to actions taken at Member State level, thereby achieving a high degree of environmental protection while also ensuring the internal market objective.

B. Objectives of EU initiative

What are the main policy objectives?

To review and possibly strengthen the framework currently in place in order to make a significant contribution to current or future national, EU and international climate change goals while preventing distortion of the internal market;

To anticipate future developments by ensuring compatibility with potential international commitments for HFCs or other F-Gases, in particular under the Montreal Protocol;

To upgrade the existing legislation through enhancing the effectiveness and efficiency and if appropriate by clarifying existing provisions of the F-Gas Regulation.

Do the objectives imply developing EU policy in new areas or in areas of strategic importance?

No

C. Options

(i) What are the policy options? (ii) What legislative or 'soft law' instruments could be considered? (iii) Would any legislative initiatives go beyond routine up-date of existing legislation?

Policy options for further EU action to be considered include:

- The control of the production and/or consumption of HFCs and/or other F-Gases in the EU and/or other options to implement a potential future agreement on F-gases, for example under the Montreal Protocol, through Regulation (EC) No 842/2006;*
- The control of certain uses of F-Gases in the EU, e.g. the use of SF6 in magnesium die casting and/or the control of the placing on the market of F-Gases and of additional products and equipment containing F-Gases in the EU;*
- The extension of the containment and recovery measures provided in Articles 3 and 4(1) of the Regulation to non covered sectors such as refrigeration systems fitted in certain modes of transport and air conditioning systems fitted in certain modes of transport other than motor vehicles;*
- Further measures to strengthen recovery of F-Gases from products and equipment for the purpose of recycling, reclamation or destruction and/or the establishment of maximum leakage rates for certain applications containing F-Gases;*
- The inclusion of additional F-Gases within the scope of the Regulation and/or the amendment of the Community provisions on the GWP of F-Gases;*
- Options to address other issues related to F-Gases outside the Regulation, including through non-regulatory actions.*

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

Potential links with other EU existing or developing policies would exist with: Regulation 1005/2009 on substances that deplete the ozone layer, the eco-design criteria for particular Energy-Using-Products (e.g. ENER's Lots 10 [residential a/c], 12 [commercial refrigeration] and 13 [domestic refrigeration] and ENTR's Lots 1 [industrial refrigeration] and 6 [larger a/c]), waste legislation (e.g. waste framework directive, WEEE and ELV Directives), the EPB Directive and climate and energy policy (the ETS Directive (PFCs), effort sharing).

Possible interactions, complementarities or overlaps with those and other policy areas will be investigated further during the preparatory work.

Explain how the options respect the proportionality principle

The Commission is required to consider several of the abovementioned options in the evaluation report which will precede the impact assessment report. Therefore these options will be subject to a screening assessment in the context of this evaluation, also with respect to their proportionality, before they are carried forward for further consideration in the framework of the impact assessment.

D. Initial assessment of impacts

What are the significant impacts likely to result from each policy option (cf. list of impacts in the Impact Assessment Guidelines pages 32-37), even if these impacts would materialise only after subsequent Commission initiatives?

Significant impacts likely to result from the policy options being considered may include, apart from the reduction of F-Gas emissions which is the primary objective: the stimulation of research & development and innovation; potential positive and negative impacts on the competitiveness of EU industries and on trade flows between the EU and third countries; potential positive impacts with regards to the functioning of the internal market and competition; potential negative impacts on operating costs of industries in certain sectors; potential administrative burdens to Public Authorities and enterprises.

Nevertheless, considering that a Regulation is already in place, the magnitude of the impacts of the review options is likely to be rather limited. A detailed analysis of the likely economic, social and environmental impacts of all options identified (individual or combined) will be undertaken in the context of the ongoing preparatory work.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

The options are not expected to have impacts on the EU budget exceeding 5 Mio €

Could the options have significant impacts on (i) simplification, (ii) administrative burden or on (iii) relations with third countries?

The options are not expected to have a significant effect with regards to these issues. However, the review may reveal some scope for simplification, expected to be limited, and there may be some impact on trade flow with third countries.

E. Planning of further impact assessment work

When will the impact assessment work start?

A contract to provide technical support (technical data, analyses and other support) was launched in December 2009. The work by the Commission Services is scheduled to start in autumn 2010 and will use the results of the study as a major input.

(i) What information and data are already available? (ii) Will this impact assessment build on already existing impact assessment work or evaluations carried out? (iii) What further information needs to be gathered? (iv) How will this be done (e.g. internally or by an external contractor) and by when? (v) What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

The output of the above mentioned technical support contract will be used for drafting the evaluation report to be prepared under Article 10 of Regulation (EC) No 842/2006. The impact assessment will build both on the evaluation report, and other components of the external study. The analysis of the impact on emissions from the various options will be based on a bottom-up analysis, using stock models based on market data, including production, imports, exports and sales, both of substances and products & equipment.

Which stakeholders & experts have been/will be consulted, how and at what stage?

A consultative expert group will be established composed of Competent Authorities from Member States, Industry associations and experts as well as environmental NGOs. Meetings have been scheduled to take place during the course of 2010 and 2011.