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Dear Chairs,

The Commission would like to thank the Eerste Kamer for its Opinion on the proposal for a Regulation of the European Parliament and of the Council on fluorinated greenhouse gases, amending Directive (EU) 2019/1937 and repealing Regulation (EU) No 517/2014 {COM(2022) 150 final}.

This proposal complements the 'Fit for 55' package¹ and represents another important contribution to the European Union's objectives to avoid climate change and reduce greenhouse gas emissions to at least 55% below 1990 levels by 2030, as well as to reach climate neutrality by 2050, as required by the European Climate Law². Emissions of fluorinated greenhouse gases are included in the proposal to modify the Effort Sharing Regulation³. Additional emission savings in this area at European Union level can help Member States achieve their respective targets and improve the overall effectiveness of reaching the climate goals. The Regulation on fluorinated greenhouse gases is also the European Union's main instrument to ensure its compliance with the obligations of the

¹ COM(2021) 550 final

² Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law'), OJ L 243, 9.7.2021, p. 1.

³ COM(2021) 555 final

Montreal Protocol as regards hydrofluorocarbons, which are the most common fluorinated greenhouse gases.

Besides raising the climate ambition and aligning with relevant international rules, the proposal aims to improve implementation and enforcement, most notably as regards illegal trade of fluorinated greenhouse gases, as well as having better and more efficient monitoring and reporting measures.

The Commission welcomes the broad support expressed for the aims of the proposal and notes that the three parliamentary groups that have expressed their views in the Opinion (GreenLeft, Labour and Animal Rights) would like to go even further with regard to ambition and have a number of detailed questions and comments. The Commission is pleased to have this opportunity to provide a number of clarifications regarding its proposal.

First, the Commission has chosen the most ambitious option to achieve the objectives that avoids excessive costs and represents proportionate actions with regard to other areas of the economy. The Commission agrees that prohibitions are effective in relation to specific types of products or equipment where a shift from fluorinated greenhouse gases to climate-friendly alternatives would be feasible in all cases within that specified segment of products or equipment. However, the choice of a quota system in combination with some sectoral prohibitions is even more effective and saves more emissions than relying on prohibitions alone, as the quota system also promotes the conversion for types of products and equipment where prohibitions are not yet workable. This approach has been successfully used in the Regulation on fluorinated greenhouse gases in force as it has led to significant green growth and innovation. It is supported by most stakeholders from industry and authorities⁴. Finally, the highest cost option that would cause economic hardship to some sub-sectors would save only marginally higher quantities of emissions by 2050.

A main objective of the review is to address illegal activities, especially illicit imports of hydrofluorocarbons outside the quota system. Several new measures proposed are meant to tackle these issues, and improve custom controls and market surveillance, including stricter penalties. In addition, envisaging a price for the allocation of quotas is meant to discourage actors that are not connected to the gas trade.

The Commission has also set up an electronic control of all shipments involving fluorinated greenhouse gases: the European Union Single Window Environment for Customs, where information is automatically cross-checked with the European Union central hydrofluorocarbons registry operated by the Commission (Directorate-General for Climate Action). Czechia started using this system in April 2022 and all other Member States will have a legal obligation to do so in accordance with the Single

⁴ See SWD(2022) 96 final, Impact Assessment Report accompanying the document Proposal for a Regulation of the European Parliament and of the Council on fluorinated greenhouse gases, amending Directive (EU) 2019/1937 and repealing Regulation (EU) No 517/2014, for example chapters A2 and A5, https://ec.europa.eu/clima/document/download/9013881e-8d5d-429e-9112-c908f127c833_en?filename=f-gases_impact_assessment_en.pdf.

Window Regulation⁵ that should come into effect in 2025 (a provisional political agreement has been reached between the co-legislators in May 2022).

Discussions between the co-legislators, the European Parliament and the Council, concerning the proposal are underway. The relevant Council working group started discussing the proposal and the Commission presented it to the European Parliament's Committee on Environment, Public Health and Food Safety on 2 June 2022. The Commission hopes that an agreement can be found quickly to allow the new rules to apply from 2024.

The Opinion of the Eerste Kamer has been made available to the Commission's representatives in the ongoing negotiations of the co-legislators and will inform these discussions.

In response to the more technical detailed questions and comments in the Opinion, the Commission would like to refer to the attached annex.

The Commission hopes that the clarifications provided in this reply address the issues raised by the Eerste Kamer and looks forward to continuing the political dialogue in the future.

Yours faithfully,

*Věra JOUROVÁ
Vice-President*

⁵ COM(2020) 673 final

The Commission has carefully considered the issues raised by the Eerste Kamer in its Opinion and would like to offer the following observations grouped by topic.

As far as the issue of prohibiting highly warming hydrofluorocarbons is concerned, the Commission is aware of the recommendation from the European Environmental Bureau. The proposed quota system is prohibiting highly warming hydrofluorocarbons to the extent feasible. The quota reduction is steep. Highly warming hydrofluorocarbons will become, in relative terms, much more expensive (as they consume a lot of quota measured in CO₂ equivalents), thus stimulating alternatives. The proposed quota system requires a 95% reduction of hydrofluorocarbons placed on the European Union market by 2030 compared to 2015.

On standards, recent progress at international level on IEC 60335-2-40 and 60335-2-89 is very encouraging and already allows companies to comply with European Union legislation by adhering to those standards as part of the required risk assessment. The Commission has written to the standardization organisations in May 2022 to make the point that the translation into the European Standards (EN standards) should be done as quickly as possible.

On promoting research and innovation, the LIFE programme has a dedicated fluorinated greenhouse gas priority area and nine projects on this topic have been financed since 2018. Heat pumps are also explicitly addressed by the Horizon research and development funding priorities.

Hydrofluorocarbons are imported mostly from China, followed by the United States of America. The required raw material to produce them (fluorspat) is mined in many countries, but highest amounts come from Mexico, China, South Africa and Mongolia. The production of hydrofluorocarbons requires the production of ozone-depleting substances, in particular hydrochlorofluorocarbons, as intermediates.

According to the European Union quota registry, the five largest chemical producers and importers of hydrofluorocarbons appear to hold, at present, approximately two-thirds of the European Union quota, down from over 80% in 2015. At the same time, the participation of new entrants has risen sharply (overall market players rose from just over 100 in the period before 2014 to over 2 000 at present). Some of these 'new' companies have benefitted from the quota system in a disproportionate way to the detriment of other market participants. Therefore, the Commission proposes to limit participation in the quota system to companies with previous experience in the gas trade. This must also be seen in the context of the rapidly declining market under the quota system. The proposal to amend the Regulation on fluorinated greenhouse gases requires that hydrofluorocarbons marketed in the European Union in 2030 may only be up to 5% of the amount placed on the market in 2015 (in CO₂ equivalent). It is therefore expected that the number of players will slightly decline, but not to an extent that it would raise concerns.

As regards transparency, the list of reference values is already public, so that all companies holding larger amounts of quota are known. The Commission is looking into whether protecting the confidentiality of smaller new entrant players would, at this point of an established quota system, still be required, as it was in the early stages of the phase-down.

On equipment leaks, the proposal includes several measures, many of which have already been in place since 2006, to reduce these losses, including obligatory leak checking and recovery, record keeping, training and certification of service personnel and a general prohibition to intentionally release fluorinated greenhouse gases into the atmosphere where this could have been avoided. Also, it is an obligation to take technically feasible measures to reduce losses of fluorinated greenhouse gases. As evidenced by the recent evaluation to amend the Regulation on fluorinated greenhouse gases⁶, leak rates from equipment keep going down and refrigerant management is viewed as best practice world-wide, where many other countries emulate the measures taken in the European Union.

⁶ https://ec.europa.eu/clima/document/download/1162616a-4368-4aa0-ba9c-849f5f5a0541_en?filename=f-gas_evaluation_report_en.pdf