Opinion of the European Economic and Social Committee on the 'Proposal for a regulation of the European Parliament and of the Council on fluorinated greenhouse gases'

COM(2012) 643 final — 2012/0305 (COD)

(2013/C 271/26)

Rapporteur: **Mário SOARES**

On 21 November and 19 November 2012 respectively, the Council and the European Parliament decided to consult the European Economic and Social Committee, under Article 192(1) of the Treaty on the Functioning of the European Union, on the

Proposal for a Regulation of the European Parliament and of the Council on fluorinated greenhouse gases

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The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 26 April 2013.

At its 490th plenary session, held on 22 and 23 May 2013 (meeting of 23 May), the European Economic and Social Committee adopted the following opinion by 92 votes to 2 with 1 abstention.

1. **Conclusions and recommendations**

1.1 The EESC firmly supports the Commission's efforts to strengthen legislation on fluorinated greenhouse gases (F-gases).

1.2 The EESC stresses the urgent need to draw up an international agreement on the control of F-gases that subjects all the world's economies to identical rules.

1.3 In the ongoing economic and social crisis, protecting jobs has to be a priority. The transition to a climate- and environment-friendly economy must be based on strong social dialogue so that future changes can be managed collectively and democratically. Social dialogue, negotiation and participation are fundamental values and tools that underpin and reconcile the promotion of social cohesion and quality jobs, job creation and enhanced innovation and competitiveness in European economies.

1.4 The EESC calls for the financial and administrative burden of implementing the various aspects of this regulation to be reduced, especially for small and medium-sized enterprises (SMEs).

1.5 The EESC calls for more thought to be given to life-cycle energy consumption and for the cost-benefit analysis to cover the possible disadvantages of the proposed alternative technologies.

1.6 The Commission and Member States need to step up support for industrial research and innovation, especially with regard to developing alternative technologies to F-gases.

1.7 Companies and Member States all need to make a substantial effort to implement a socially just transition within the policies undertaken to reduce the use and production of F-gases.

1.8 It may be necessary to develop appropriate training programmes to prepare workers for alternative technologies to F-gases but the specific situation of SMEs needs to be taken into consideration. The financial and administrative burden of certification and training needs to be contained.

1.9 Upstream action needs to be taken to the use of F-gases and, therefore, to prevent leaks by strengthening requirements for the design of installations containing these substances.

1.10 The Member States should develop separate collection systems for end-of-life appliances that contain fluorinated substances, in line with the principles of Directive 2002/96/EC on Waste Electrical and Electronic Equipment (WEEE).

1.11 All undertakings carrying out activities associated with the production, distribution or installation of appliances containing F-gases should be concerned by these training programmes, which should cover alternative technologies to facilitate technological transition.

1.12 The EESC believes that it would be more appropriate to distinguish between technologies in order to organise a phasing-out rather than a phasing-down, at least in cases where this is technically feasible and financially realistic.

1.13 Restrictions placed on European producers should also be placed on products imported to the EU.

1.14 The Commission will have the main responsibility for implementing the quota system and should contain its cost while also preserving its environmental integrity.

1.15 The Commission should be granted powers of control, verification and compliance in relation to this regulation.

1.16 The EESC endorses the choice of environmental protection for the legal basis, but stresses the need to ensure that the implementation of the regulation is not prejudicial to the integrity of the single market.

2. **Introduction**

2.1 In 2004, the EESC drew up an opinion [1] on the Proposal for a Regulation of the European Parliament and of the Council on fluorinated greenhouse gases (current Regulation (EC) No 842/2006), which emphasised that human activity had increased the concentration of greenhouse gases (GHGs) and that unless these trends, and associated global warming, could be restrained or reversed, they would lead to permanent and potentially harmful climate change. While supporting the Commission's objective and general approach, the 2004 opinion raised a number of issues presented by the draft regulation. A certain number of these criticisms still seem to apply and are reiterated in this opinion.

2.2 F-gases are powerful GHGs generated by human activity. At present, they are covered by two international agreements, depending on whether they contain properties which deplete the stratospheric ozone layer. On the one hand, the 1987 Montreal Protocol – which resulted from the Vienna Convention – sets out measures for controlling the production and use of these substances with a view to phasing them out completely. This protocol has continued to evolve in order to include new gases and applications within its scope. On the other hand, the Kyoto Protocol includes F-gas emissions that do not have an impact on the ozone layer in the GHG reduction effort, which this agreement implements. The Climate and Clean Air Coalition, which since 2012 has sought to tackle short-lived pollutants, has also put hydrofluorocarbon (HFC) emissions at the top of its agenda.

2.3 The EU is part of the vanguard in the fight against F-gases. In 2009, 2010, 2011 and 2012, several signatories to the Montreal Protocol, including the United States, presented proposals aimed at limiting the global production and consumption of HFCs. These initiatives were supported by 108 countries.

2.4 However, there has been little progress since China, Brazil, India and the Persian Gulf States, among others, refuse to discuss this issue within the framework of the Montreal Protocol, arguing that F-gases covered by the Kyoto Protocol have no impact on the stratospheric ozone layer.

2.5 In 2009, the EU set itself GHG emissions reduction targets for 2020 and 2050. The EU committed to cutting its GHG emissions by 20 % by 2020, compared with 1990 levels, and by 30 % if an international agreement was concluded, binding the other major economies to comparable targets.

2.6 The EU has adopted a set of innovative instruments in order to achieve these goals, the most important of which are the directives on the GHG emission allowance trading scheme (Directive 2009/29/EC), the use of energy from renewable sources (Directive 2009/28/EC), and energy efficiency (Directive 2012/27/EU), and the decision on the shared effort of Member States (Decision No 406/2009/EC). The EU has acknowledged that developed countries will have to achieve 80-95 % emissions reductions by 2050 vis-à-vis 1990 levels in order to keep global warming below the target limit of 2 degrees Celsius.

2.7 The European Commission's *Roadmap for moving to a competitive low carbon economy in 2050* establishes that the most economically efficient scenarios involve emissions cuts of 25 % by 2020 and 40 % by 2030 compared with 1990 levels, and of 60 % between now and 2040.

2.8 In view of their global warming potential, F-gases are an integral part of the EU framework for fighting climate change. There are two key EU legislative acts on F-gases:

— Regulation (EC) No 842/2006 mainly establishes a system for preventing leakage during the use of stationary equipment and at the end of its life and a set of restrictions for certain applications.

[1] OJ C 108, 30.4.2004, p. 62.

— Directive 2006/40/EC on mobile air-conditioning systems.

2.9 While the EU's strengthened commitment to fighting climate change and becoming a low-carbon economy is welcome, it must be backed by a credible social programme and the necessary funds to support the sectors and regions that would feel the negative employment effects generated if the other large economies made no progress. The international economic and energy situation has made competitiveness a very sensitive issue, especially for the energy-intensive export sectors. Efforts to decarbonise the European economy must centre more around a reindustrialisation strategy based primarily on resource efficiency, including for energy, and sustainable and innovative technologies.

3. **Summary and background to the Commission proposal**

3.1 *This Commission proposal aims to:*

3.1.1 replace Regulation (EC) No 842/2006 on certain fluorinated greenhouse gases, in order to ensure a more cost-efficient contribution to achieving the EU's climate objectives by discouraging the use of F-gases with a high impact on the climate in favour of energy-efficient and safe alternatives, and further improving the containment and end-of-life treatment of equipment and products that contain F-gases;

3.1.2 enhance sustainable growth, stimulate innovation and develop green technologies by improving market opportunities for alternative technologies and gases with a low impact on the climate;

3.1.3 bring the EU into line with the latest scientific findings at international level, as described in the Fourth Assessment Report of the UN's IPCC, e.g. with regard to the substances covered by this regulation and the calculation of their global warming potential (GWP);

3.1.4 help to bring about a consensus on an international agreement to phase down HFCs, the most relevant group of F-gases, under the Montreal Protocol;

3.1.5 simplify and clarify Regulation (EC) No 842/2006, so as to reduce the administrative burden in line with the Commission's commitment to better regulation.

4. **General comments**

4.1 The EESC firmly supports the Commission's efforts to strengthen legislation on F-gases, In view of their considerable global warming potential, it is vital to step up efforts to restrict emissions of these gases in the EU, in terms of production as well as use.

4.2 Although the existing rules are in fact well-designed, there have been numerous difficulties with their implementation, most of which the EESC had identified in its 2004 opinion. The EESC calls on the Member States to step up their efforts to enforce their own decisions.

4.3 While endorsing the EU's initiatives, the EESC would stress the urgent need to draw up an international agreement on the control of F-gases that subjects all the world's economies to identical rules.

4.4 Since technically feasible and economically viable alternative technologies exist, legislation will be strengthened on the basis of a good cost-efficiency ratio so that the general macroeconomic impact will be very slight, except in certain specific sectors. Nevertheless, the cost of implementing the law could be offset partly by energy-efficiency gains and partly by the strategic market positioning of innovative enterprises. Although the cost-effectiveness of the proposed measures has been carefully studied, the EESC stresses the need to keep the cost of implementing the draft regulation's provisions as low as possible. Furthermore, the EESC calls for more thought to be given to life-cycle energy consumption and for the cost-benefit analysis to cover the possible disadvantages of the proposed alternative technologies (inflammable, explosive and toxic properties and pressurisation hazards). Additionally, the levels of safety required in certain sectors such as railways may prevent the use of alternative substances even if they have been successfully developed. It is therefore necessary to push ahead with the development of alternative solutions, for these sectors, which are ecologically and economically feasible.

4.5 The EESC also calls on the Commission and the Member States to strengthen support for industrial research and innovation, especially with respect to developing alternative technologies to F-gases. Given the ongoing economic crisis in the EU, support for innovation will play a decisive role in a reindustrialisation strategy. Nevertheless, we must also consider that there is no certainty that substances or technologies capable of fulfilling functions that are essential to a developed society, e.g. refrigeration, can be developed at a reasonable cost.

4.6 The EESC welcomes the fact that the proposal includes an article on training and certification, which should enhance the law's effectiveness and promote the development of synergies with EU legislation on the health and safety of workers, mainly by addressing the risks of alternative technologies. Nevertheless, the EESC notes that the lack of adequate staff training is often a significant obstacle to the implementation of legislation. Companies and Member States both need to make a substantial effort to develop the training programmes needed to prepare workers for alternative technologies to F-gases. The specific situation of SMEs needs to be taken into consideration and the financial and administrative burden involved in certification and training needs to be contained.

4.7 The EESC emphasises the need to draw on the good practices of certain Member States in order to address the question of F-gases.

5. **Specific comments**

5.1 Since the cost of containment measures (i.e. checking for leakage, leakage detection, record keeping etc.) is very substantial for end users, who are often SMEs, the EESC is concerned about the financial burden that legislation on F-gases entails for this economic sector, which has already been weakened by the economic crisis. The EESC stresses the need to take action prior to the use of F-gases and therefore calls for leaks to be prevented by strengthening requirements for the design of installations containing these substances.

5.2 In a number of cases, recovery requirements under Article 7(4) concern household use (air-conditioning, heat pumps). It would make more sense to get Member States to develop separate collection systems for end-of-life appliances that contain fluorinated substances, in line with the principles of the WEEE Directive.

5.3 *Training and certification (Article 8)*

5.3.1 The obligation to establish training programmes applies only to undertakings carrying out the activities set out in Article 8(1) for third parties. The EESC believes that all undertakings carrying out activities associated with the production, distribution or installation of appliances containing F-gases should be concerned by these training programmes. The EESC stresses the need for these programmes to cover alternative technologies in order to facilitate technological transition.

5.3.2 Since the training programmes mainly concern substances and processes which can affect the health and safety of workers, the social partners should be involved in their establishment by the Member States. Involving the social partners in the development of these programmes would facilitate the proposal's alignment with the general principles of EU legislation on the health and safety of workers.

5.3.3 Since it is unclear when this proposal for a regulation is to be adopted, the date given as a deadline for Member States to notify the Commission of their training and certification programmes should be replaced with a period of time following the regulation's entry into force.

5.4 *Placing on the market and control of use*

5.4.1 Despite the restrictions set out in Articles 9, 11 and 12, the proposal for a regulation generally gives preference to phasing down rather than phasing out by 2030. Indeed, Article 13 provides for the reduction of the placing on the market of hydrofluorocarbons through progressive quota reductions that do not distinguish between the different technologies covered by the proposal for a regulation.

5.4.2 The EESC believes that it would be more appropriate to distinguish between these technologies in order to organise a phasing-out rather than a phasing-down, at least in cases where this is technically feasible and financially realistic. There should be a long-term objective for a ban that is compatible with the EU's 2050 targets for GHG emissions reductions, and with the development of alternative technologies. For some sectors, e.g. commercial refrigerators or large industrial refrigerating systems, the ban on placing new HFC equipment on the market could come into force as of 2025. Similarly, non-reusable F-gas containers (sprays or aerosols) should be banned, with possible derogations for certain essential uses (e.g. in medicine) where no plausible alternatives present themselves.

5.4.3 In addition to the obvious environmental advantages of the wholesale replacement of technologies that produce particularly potent greenhouse gases, and despite the cost involved, a more systematic substitution would promote innovation and give innovative undertakings a competitive edge on the markets that will be created by legislation currently under preparation.

5.5 Labelling provides workers handling equipment covered by this draft regulation and end consumers with vital information on the risks associated with the technologies they use. Where workers are concerned, technical notices must be exhaustive, clear and rigorous, covering all the information required so that installation, maintenance and dismantling operations can be carried out with a minimum of risk to the environment.

5.6 In order to maximise the impact of the message and bearing in mind the area's technical complexity, the emphasis should be on providing simple information that is clear to the average person. As a result, synergies must be created with the system in force under Directive 2005/32/EC on ecodesign, in order to promote, where technically feasible, a harmonised eco-labelling system throughout Europe.

5.7 Restrictions placed on European producers should also be placed on products imported to the EU. The ban on the pre-charging of equipment is an environmentally and economically efficient way to regulate the importation of F-gases. The EESC nevertheless wonders whether charging equipment at the industrial site would not provide better reliability guarantees since it is carried out with specifically adapted material and by specifically trained staff. The EESC therefore recommends that the regulation should state explicitly that the ban on pre-charging does not apply to equipment intended for export. Similarly, the EESC calls for the development of a system of derogations from the ban on pre-charging, applicable to equipment for which pre-charging has been shown to be justified for reasons of reliability, safety or environmental performance.

5.8 All producers and importers of F-gases will be subject to quotas. These obligations do not apply to consumers or equipment operators. In order to ease the administrative burden, the threshold is set at one metric tonne or 1 000 tonnes of CO_2 equivalent of F-gases. Exported quantities do not count against the placing on the market quota. Quotas will be allocated through 'grandfathering' (i.e. on the basis of past emissions). The auctioning option was abandoned because of the small number of operators on the market (i.e. not enough to create an efficient market) and because it would have increased the administrative costs. Five percent will be reserved for 'new entrants'. The allocation of quotas will be based on data provided for 2008-2011. It is important to keep registration and reporting requirements manageable, in order to avoid placing an excessive administrative burden on companies, especially SMEs. Generally speaking, it is worth raising the question of the quota system's cost-effectiveness.

5.9 The EESC urges the Commission to publish regular reports on the data gathered in line with Articles 17 and 18 of the proposed regulation. These reports must not however breach the confidentiality of the data obtained from companies concerning industrial processes protected by intellectual property rights. The Commission should also take care to contain the administrative costs involved in gathering data from the companies concerned, as well as from the Member States.

5.10 Article 21 provides for the establishment of a committee to assist the Commission in the exercise of its powers to adopt delegated acts. This committee should comprise representatives of all the parties concerned, including the social partners.

5.11 The EESC regrets that Article 22 does not grant the Commission any powers regarding control, verification and compliance. Although implementing measures are a prerogative of the Member States, it would have been appropriate to empower the Commission to establish minimum requirements, along the same lines as the provisions set out in Articles 8 and 18.

5.12 The EESC endorses the Commission's decision to base the regulation on fluorinated greenhouse gases on Article 192(1) of the Treaty on the Functioning of the European Union, given that the regulation's primary aim is to guarantee a high level of environmental protection, particularly by combating climate change. However, the EESC stresses the need to ensure that the implementation of the regulation is not prejudicial to the integrity of the single market.

Brussels, 23 May 2013.

The President
of the European Economic and Social Committee
Henri MALOSSE