

European Communities

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EUROPEAN PARLIAMENT

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# Working Documents

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7 December 1977

DOCUMENT 417/77

## Report

drawn up on behalf of the Committee on the Environment, Public Health and  
Consumer Protection

on the proposal from the Commission of the European Communities to the  
Council (Doc. 282/77) for a recommendation on the fluorocarbons in the  
environment

Rapporteur: Mr H.E. JAHN



By letter of 13 September 1977 the President of the Council of the European Communities requested the European Parliament to deliver an opinion on the proposal from the Commission of the European Communities to the Council for a recommendation on the fluorocarbons in the environment.

The President of the European Parliament referred this proposal to the Committee on the Environment, Public Health and Consumer Protection.

On 26 September 1977 the Committee on the Environment, Public Health and Consumer Protection appointed Mr JAHN rapporteur.

It considered this proposal at its meetings of 20 October and 23 November 1977.

At its meeting of 23 November 1977 the committee adopted unanimously the motion for a resolution and the explanatory statement.

**Present:** Mr Ajello, chairman; Mr Jahn, vice-chairman and rapporteur; Lord Bethell and Mr Baas, vice-chairmen; Mr Brégégère, Mr Edwards, Mr Evans, Lady Fisher of Rednal, Mr Guerlin, Mr E. Muller, Mr Ney, Lord St. Oswald, Mr Spicer, Mrs Squarcialupi and Mr Veronesi.

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The Committee on the Environment, Public Health and Consumer Protection hereby submits to the European Parliament the following motion for a resolution, together with explanatory statements:

MOTION FOR A RESOLUTION

embodying the opinion of the European Parliament on the proposal from the Commission of the European Communities to the Council for a recommendation on the fluorocarbons in the environment

The European Parliament,

- having regard to the proposal from the Commission of the European Communities to the Council<sup>1</sup>,
  - having been consulted by the Council (Doc. 282/77),
  - having regard to the report of the Committee on the Environment, Public Health and Consumer Protection (Doc. 417 /77),
1. Notes with satisfaction that the Commission's proposal - at least as far as its approach is concerned - meets a demand which the European Parliament has formulated on repeated occasions;
  2. Points out, however, that the 'recommendation' formula chosen by the Commission is not binding on the Member States and therefore requests the Commission to submit, by the second half of 1978, the time-limit it itself set, a proposal for a directive on the basis of Articles 100 and 235 of the EEC Treaty in order to compel the Member States to implement the proposed measures in full and within a set period;
  3. Urges that the Member States should be obliged to ensure that, pursuant to the new directive, the capacity of the industry producing the dangerous chemicals chlorofluoromethanes F-11 and F-12 is not further expanded;
  4. Deems essential the introduction of Community measures aimed at banning the use of fluorocarbons as propellants in aerosol products since such measures would help to preserve the ozone layer in the stratosphere and thereby protect human and animal life from skin cancer caused by excessive ultraviolet solar radiation;
  5. Is convinced a Community solution is necessary for the additional reason that this constitutes the only means of enabling the relevant industries of the Community to check or reduce the lead which the USA is building up in this sector;

<sup>1</sup> OJ No. C 217, 10.9.1977, p. 2

6. Stresses that Community measures must in no event jeopardise jobs in the aerosol industry but be aimed at bringing about a gradual production switch through the use of other, harmless substances in aerosol products, thus safeguarding existing jobs;
7. Welcomes in principle the proposed comprehensive Commission study on a Community-wide basis of the economic and social impact of possible measures to regulate the use of fluorocarbons, but requests the Commission to coordinate this study with research already in progress at international level in order to avoid duplication;
8. Considers it appropriate for the Commission to make use of the practical experience of third countries, especially the USA, as regards the effects of measures limiting the use of fluorocarbons;
9. Is aware that the Commission's proposals, despite their undisputed importance, are merely provisional and therefore calls on the Commission to submit an appropriate proposal for a directive on the basis of the results of its Community-wide study in the second half of 1978 with a view to providing a definitive solution for the problem of the use of fluorocarbons by introducing specific provisions;
10. Requests the Commission to incorporate the following amendments pursuant to Article 149, second paragraph, of the Treaty establishing the EEC.

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Proposal for a Council  
recommendation on the fluoro-  
carbons in the environment

Preamble and recitals unchanged

Points 1 to 3 unchanged

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| 4) to take all appropriate measures to ensure that there will be no further increase in production capacity in the Community in respect of chlorofluoromethanes F-11 and F-12. | 4) to take all appropriate measures to ensure that there will be no further increase in production capacity in the Community in respect of chlorofluoromethanes F-11 and F-12 and that any new products which, directly or indirectly are hazardous to human health are prohibited. |
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<sup>1</sup> For full text see OJ No. C 217, 10.9.1977, p. 2

EXPLANATORY STATEMENTI. The current situation

1. Fluorocarbons are used mainly by the aerosol industry as propellants in domestic appliances or personal hygiene products, in refrigeration and air-conditioning equipment and in the production of polyurethane foams.
2. International research has shown that fluorocarbon emissions can lead to a reduction of the ozone layer of the stratosphere. At the international meeting held under the auspices of the United Nations Environment Programme (UNEP) in Washington in March 1977 on the stratospheric ozone layer and the various influences upon it, there was a large measure of agreement that depletion of the ozone layer by emissions from aircraft was negligible, but that fluorocarbon emissions on the other hand were a matter of concern.
3. A depletion of the ozone layer of the stratosphere would entail an increase in the amount of short-wave radiation reaching the earth's surface. Increased ultra-violet radiation can, according to the results of scientific research, be associated with
  - increased incidence of malignant melanoma, a type of skin cancer which is often fatal;
  - increased incidence of some skin carcinomas entailing varying degrees of disfigurement;
  - various effects on plants and animals.Given the intensive absorption of fluorocarbons in the infra-red region, a reduction in the infra-red flux released into space by the earth-atmosphere system is also to be expected. This would give rise to an increase in the temperature of the earth's surface and atmosphere ('greenhouse effect').
4. Approximately 40% of the world output of chlorofluoromethanes is consumed in Europe, about the same amount as in the USA. Large numbers of jobs are related either directly or indirectly to fluorocarbon manufacture or usage. The competent authorities in the United States have proposed a three-step timetable for the phase-out of non-essential uses of fluorocarbons as propellants in aerosol products. This timetable is as follows:
  - from 15 October 1978 no company may manufacture fluorocarbons for use in aerosol products;
  - before 15 December 1978 companies must stop using these chemicals as propellants in aerosol products;

- from 15 April 1979 products containing fluorocarbon propellants may no longer be placed on the market.

Exempted from the proposed ban will be essential aerosol products such as products intended for medical use.

This ban is expected to eliminate 60% of fluorocarbon emissions in the USA.

5. The Commission believes, however, that a definitive assessment of the impact of fluorocarbons on man and the environment is not yet possible. It argues that these problems must be the subject of thorough investigation within the framework of the Community policy on environmental protection and the continuous review of the impact of chemicals on the environment. In January 1977, therefore, it called a meeting of national experts to discuss this problem with a view to framing a Community policy on the use of fluorocarbons. The Council's Working Party met in February and April 1977 in order to agree on a common position for the Community based on a working document amended by the Commission.
6. At a meeting held at government level in Washington at the end of April 1977, in which major producers and consumers of fluorocarbons took part, it emerged that the question of whether regulatory action was needed to counteract the depletion of the ozone layer by these chemicals was one to which no easy answer could be given. Most of the delegations felt that although present knowledge gave rise to justified concern about the effects of the use of fluorocarbons on the ozone layer, it was necessary to obtain more conclusive evidence, especially about the physical and chemical properties of the atmosphere and the impact of ultraviolet radiation on health and the ecosystems. They therefore felt that more intensive research was required to clarify some of the uncertainties and that the problem of fluorocarbons should be reviewed again in the second half of 1978.

## II. Scope of the Commission's proposal

7. In the recitals to its proposal for a recommendation the Commission notes that
  - (a) Member States are carrying out national research on the problem of the possible threat of fluorocarbons to the ozone layer,
  - (b) various Member States are contemplating legal measures in this area on the basis of data currently available,

- (c) the Commission is undertaking a comprehensive study on a Community-wide basis on the economic and social impact of possible measures to regulate the use of fluorocarbons and aerosols and will make available the results of its study in the second half of 1978,
  - (d) the Commission will evaluate the effects of fluorocarbons on man and the environment in the second half of 1978 with a view to reaching a Community policy in the light of information available at that time.
8. The Commission therefore deems it appropriate at the present time to propose that the Council make a recommendation to the Member States comprising the following four points:
- (a) continuation and intensification of current cooperation at Community level in planning research and in making available and interpreting the results thereof,
  - (b) immediate steps to encourage and intensify the research conducted by the industries using chlorofluoromethanes F-11 and F-12 with a view to developing alternative products and alternative applications,
  - (c) immediate steps to encourage industry and users of equipment containing these chemicals to eliminate any leakage of dangerous propellants,
  - (d) measures to prevent any expansion of the production capacity of F-11 and F-12.

### III. Suggested improvements to the proposal for a recommendation

9. The European Parliament and its members have in the past already had occasion to deal with the problem of the use of dangerous propellants in aerosols. In Written Question No. 314/75<sup>1</sup> (August 1975) on dangers to the natural atmosphere from the increasing use of propellants Mr Willi Müller asked the Commission what conclusions it had drawn from the results of relevant research in the USA and when any action could be expected. In its answer the Commission pointed out that according to the present state of knowledge there was no conclusive proof that the propellants used in aerosols represented a threat to the ozone layer of the stratosphere. However, it undertook to propose appropriate measures to the Council should it be established that propellant gases did cause ecological damage.

<sup>1</sup> OJ No. C 296, 24.12.975, p. 2

In Written Question No. 855/75<sup>1</sup> of March 1976 on the replacement of propellant gas in aerosols by compressed air Mr Jahn raised this issue again in a somewhat different form. The Commission was asked whether it was prepared to submit, in the near future, a proposal for a directive aimed at

- strictly prohibiting the manufacture and marketing of aerosols containing propellant gas,
- limiting the use of products in aerosol form to an absolute minimum.

The Commission's answer to this question was evasive. It admitted the drawbacks of certain propellant gases but confined itself to noting that there was a need to standardize the volume of aerosols and to improve the labelling by requiring manufacturers to specify the quantity of sprayable product and propellant gas or liquid used.

Finally, in his Written Question No. 707/77<sup>3</sup> Mr Pisoni referred to fluoride pollution in Switzerland and asked what Community standards exist or are in prospect to prevent similar pollution affecting the Community.

10. In its resolution of 19 September 1973 on the Commission's proposal for a directive on aerosols<sup>2</sup> the European Parliament had already requested that the scope of the directive should be extended to the contents of aerosols.

In its resolution of 14 January 1977 on the ranges of nominal quantities permitted for certain pre-packaged products<sup>3</sup> the European Parliament expressed its concern about possible damage to health arising from the use of aerosol containers.

Although it accepted the inclusion of provisions relating to aerosol containers in this directive, it called on the Commission to re-examine the question of the continued use of such containers given that new information had recently come to light. In point 10 of the explanatory statement of the report drawn up by Lady Fisher of Rednal (Doc. 462/76), on which this resolution was based, the Committee on the Environment, Public Health and Consumer Protection expressed its concern about the fact that the American National Academy of Sciences had recently brought to light new arguments against the use of aerosols and requested the Commission to re-examine the whole question of the continued use of aerosols, especially for products which could be used under another form.

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<sup>1</sup> OJ No. C 128, 10.6.1976, p. 22

<sup>2</sup> OJ No. C 83, 11.10.1973, p. 24

<sup>3</sup> Bulletin No. 36/77, p.28

<sup>4</sup> OJ No. C 30, 7.2.1977, p.34

Finally, in the comprehensive report drawn up by Mr Jahn on the continuation and implementation of a European Community policy and action programme on the environment (Doc. 215/76), your Committee on the Environment gave particular consideration to the influence of fluorine and chlorine compounds and nitrogen oxides on the upper layers of the atmosphere. In the corresponding resolution of 8 July 1976<sup>1</sup> the European Parliament called on the Commission to examine at an early date, with a view to maintaining the ozone layer in the atmosphere which protects human beings and animals against excessive ultraviolet solar rays liable to cause skin cancer, whether the propellant gases contained in aerosols are harmful, and if so, to see to it that unharmed propellant gases are used in the future.

11. Thus the Commission's proposal corresponds, at least in its approach to requests formulated on repeated occasions by the European Parliament. Furthermore, the Council resolution of 17 May 1977 on the continuation and implementation of the European Community policy and action programme on the environment (Title II, Chapter 6 'Measures relating to certain products')<sup>2</sup> requires the Commission to closely scrutinize at Community level, the impact of chemical compounds on the environment. The text (point 79 of the extended programme) then reads: 'In recent years, the authorities have indeed been increasingly faced with difficulties due to the use of existing chemical compounds (e.g. PCBs, VCMs, fluorocarbons and mercury compounds), the environmental impact of which had not been, or had not been sufficiently, highlighted previously.'
12. The Commission's proposal is necessary for reasons of competitiveness. There can be no doubt that by implementing its three-step timetable banning fluorocarbons (see point 4 of this explanatory statement) the USA will soon have gained a marked technical lead in regard to the replacement of these dangerous gases by less hazardous substances. This lead will undoubtedly enable the USA to improve its competitive position and corner a larger share of the world market in this sector than hitherto. Only suitable and immediate measures on a Community basis will enable the Community to protect itself effectively against the pressure of US competition.

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<sup>1</sup> OJ No. C 178, 2.8.1976, p. 44

<sup>2</sup> OJ No. C 139, 13.6.1977, p. 18

13. Your committee emphasizes that the Commission's proposal is by no means aimed at rationalizing jobs out of existence by suddenly banning the use of fluorocarbons in the aerosol industry. The purpose of the proposal is to bring about a gradual production switch through the use of other, harmless propellants in aerosols in order to avoid any adverse effects on the situation of the labour market and safeguard existing jobs.
14. After considering the Commission's proposal in the light of the above observations your committee reached the following conclusions.

The 'recommendation' formula chosen by the Commission for these important measures on health and environmental policy is unlikely to produce the desired effect. According to Article 189, paragraph 5, of the EEC Treaty, recommendations have no binding force. Moreover, experience has shown that Member States rarely follow Community recommendations (e.g. recommendation on the setting up of medical services in workplaces, recommendation on the protection of mothers, to name but two). The Commission must, therefore, submit, by the second half of 1978, the time-limit it itself set, a proposal for a directive on the basis of Article 100 and Article 235 of the EEC Treaty. This is the only way of ensuring that the proposed provisions are implemented in full and within a set period by the Member States. According to Article 189, paragraph 3, of the EEC Treaty, a directive is binding, as to the result to be achieved, but leaves to the national authorities the choice of form and methods.

15. Points 1 to 3 of the proposal for a recommendation which - as stressed above - should be converted into a proposal for a directive, have received your committee's approval. The latter emphasizes however, that in points 2 and 3 stress is laid on the words immediate steps and that immediate action must therefore be taken.

Your committee feels that, in addition to the ban on increased production capacity provided for in point 4, any new product which, directly or indirectly, is hazardous to health should be prohibited. Furthermore the Commission is urged to ensure in its draft directive to be submitted in the second half of 1978 that, there will be no further increase in production capacity in respect of the dangerous chlorofluoromethanes F-11 and F-12.

16. Particular attention should be paid to the fifth recital according to which the Commission, in the second half of 1978, will evaluate the effects of fluorocarbons on man and the environment with a view to reaching a Community policy in the light of the information then available.

Your committee calls on the Commission not to stop at this evaluation but, also in the second half of 1978, to submit an appropriate proposal for a directive with a view to providing a definitive solution for the problem. Clearly, the present proposals, despite their undisputed importance, are merely provisional and must be followed up by specific provisions as soon as possible.

17. Although the comprehensive Commission study on a Community-wide basis, referred to in the fourth recital, on the economic and social impact of possible measures to regulate fluorocarbons is, in principle, to be welcomed, the Commission is requested to coordinate this study with research already in progress at international level in order to avoid duplication. The Commission is also recommended to make use of the practical experience of third countries (especially the USA) as regards the effects of measures - the need for which is beyond question - to limit the use of fluorocarbons.