In today’s global economy, with business and politics crossing paths in every corner of the earth, it is often hard to stay on top of what is happening in the U.S., let alone in the rest of the world. For the global HVACR industry, it is often even more difficult given the ongoing focus on climate change and energy efficiency. In an effort to help our members, AHRI will be running a series on the European Union’s Directives and Regulations affecting our industry. The objective of the series is to increase members’ and AHRI’s effectiveness regarding European developments by explaining and defining pertinent EU institutions and policy practices (that often are not only different than in the U.S., but have names U.S. readers are unfamiliar with) in a manner that allows a clearer understanding of events.

This series will start with a general overview – in simplified terms – of the European Union (EU), its decision-making institutions and the legislative process. Subsequent parts of the series will focus on specific Directives and Regulations that result from that process and that affect our industry and a status update. Subsequent parts to the series include:

- 2. F-Gas Regulation
- 4. WEEE/RoHS Directives
- 5. Renewable Energy Sources (RES) Directive
- 7. EU Eco Labeling Requirements

The series’ focus on European legislative and regulatory developments pertaining to energy efficiency and climate change recognizes that for a global HVACR industry, developments in one region can have a profound effect on developments elsewhere.

The European Union’s Directives and Regulations impacting the HVACR Industry Series

Part 1 of 7 – The EU and its Legislative Process

The European Union

The European Union (EU) is not a unified, federal political entity like the United States. Nor is it simply an organization for cooperation between governments, like the United Nations. European Union Member countries voluntarily agreed to set up common institutions to which they delegate some of their sovereignty, so that decisions on matters of joint interest can be made democratically at a higher level. All EU decisions and procedures are based on the treaties agreed to by all EU countries.

There are three decision-making institutions in the European Union:

- The European Commission (Commission or EC),
- The European Parliament (Parliament), and
• The Council of the European Union (Council).

These three bodies work together to create, pass and implement laws (directives/regulations), with a system in place for checks and balances throughout the process.

**European Commission**
The European Commission (EC), composed of 27 appointed commissioners, one from each Member State, is somewhat like the EU’s executive branch and is responsible for developing policy. The Commission President, in consultation with Member States, nominates each of the 27 commissioners who must be approved by European Parliament. The Commission is independent of national governments and is tasked with representing the overall European prospective.

The Commission has four main roles:

1. **Proposing Legislation.** Proposed legislation must defend the interests of the EU and its citizens, not those of specific countries or industries. Throughout the process the Commission seeks the opinions of national parliaments, governments, and experts.
2. **Administering the Budget.** The Commission is responsible for administering and supervising expenditures under the oversight of the Court of Auditors. However, the Commission, Council and Parliament take part in setting the annual budget.
3. **Enforcing European Law.** The EC jointly with the Court of Justice, acts as guardian of the Treaties and can take legal action and refer cases to the European Court of Justice against persons, companies, or Member States that violate EU rules.
4. **Providing International Representation.** The Commission negotiates agreements between the EU and other countries and provides official presence in delegations throughout the world.

**European Council**
The Council is the EU’s main decision-making body, and represents the Member States. One minister from each of the EU’s national governments attends Council meetings. Different ministers are assigned to specific issue areas (e.g., agricultural ministers decide farm policy). Each minister in the Council is empowered to speak for and make commitment of his or her government.

The Council has six key responsibilities:

1. **Adopting European Laws.** Often it is done jointly with the European Parliament.
2. **Coordinating Policy.** Coordinating the broad economic policies of the Member States.
3. **Developing International Agreements.** Drawing up international agreements between the EU and other countries or international organizations.
4. **Setting and Approving the EU Budget.** The Commission, Council and Parliament all take part in setting the annual budget. The Council approves the budget in conjunction with the European Parliament.
5. **Developing the Common Foreign and Security Policy (CFSP).** Developing the guidelines for the CFSP.
5. Coordinating the Police and the Courts. Coordinating cooperation between the national courts and police forces in criminal matters.

The European Parliament
The European Parliament is elected by Member States’ citizens under a population-based proportional representation (similar to that of the U.S. House of Representatives). There are 736 Members of European Parliament (MEPs) and representing all 27 Member States and 7 Political Groups (political parties). Each MEP serves a 5-year term.

Parliament has three main roles:

1. Passing European Laws. Often it is done jointly with the Council.
2. Providing Democratic Supervision. Parliament has the power to approve or reject the nomination of Commissioners, and it has the right to ‘censure’ (or reprimand) the Commission as a whole.
3. Setting and Approving the EU Budget. The Commission, Council and Parliament all take part in setting the annual budget. Parliament is responsible for adopting or rejecting the EU budget in its entirety. Parliament shares authority with the Council over the EU budget and can therefore influence EU spending.

The Legislative Process
Every proposal for a new European law (in the form of regulation or directive) is based on a specific treaty article, referred to as the “legal basis” of the proposal. This determines which legislative procedure must be followed. The three main procedures are consultation, assent and co-decision. Each procedure is initiated by the Commission submitting a proposal for new legislation.

- Consultation: In the consultation procedure, the Council consults Parliament on the Commission’s proposal. Parliament can: approve the Commission proposal; reject it; or ask for amendments. If Parliament asks for amendments, the Commission will consider all the changes Parliament suggests. If it accepts any of these suggestions it will send the Council an amended proposal. The Council examines the amended proposal and either adopts it or amends it further. The consultation procedure is used in areas such as agriculture, taxation and competition.

- Assent: The assent procedure is similar to the consultation in that the Council still has to obtain the European Parliament’s acceptance to proceed. However, Parliament cannot amend a proposal: it must either accept or reject it as presented. The assent procedure is mostly used for agreements with other countries, including the agreements allowing new countries to join the EU.

- Co-decision: This is the procedure now used for most EU law-making. The European Parliament has the power of “co-decision” with the Council. Parliament does not merely give its opinion in this procedure—it shares legislative power equally with the Council of the EU. The co-decision procedure requires the two bodies to agree on identical text
before a proposal becomes law. This is the most complicated of the procedures because it calls for negotiation between the Council and Parliament.

The Co-decision Process
Almost all laws that affect the HVACR industry fall under the co-decision process. This process tends to be the most in-depth and complex and therefore will be focused on in this article.

Each piece of proposed legislation from the Commission is designated as either a directive or a regulation. A directive is a form of legislation that sets an objective or policy which needs to be accomplished and is "directed" at the Member States. The Member States must then pass the relevant domestic legislation to give effect to the terms of the directive within a time frame set in the directive, usually two years. A regulation is legislation which ‘transcends’ (or pre-empt) all member state domestic legislation, unless the member state has secured a treaty opt-out (does not have to comply with the provisions of the legislation) in the area covered by the regulation.

These are the general steps followed in the Co-decision process:

Step 1. Citizens, interest groups, and experts discuss and consult for the pending proposal.
The Commission prepares the draft proposals required to meet the treaty objectives agreed by the member states. During this process, the Commission obtains information, insight and data from numerous groups and individuals. After the initial consultation phase, the proposals are issued as green papers, and then eventually white papers. This is a key phase in which local, national and EU lobbying can play an important role. However, the challenge is to be able to notice and/or track potential legislation during its infancy.

Step 2. The European Commission makes a formal proposal.
When the Commission makes the formal proposal, its status changes from a white paper to an official proposal and the legislation procedure starts. The appropriate department within the Commission, a Directorate General (DG), such as the DG for Climate Action or DG for Communication, that has put forward the proposal is responsible for managing the project through the legislative process. After the Commission has adopted the proposal, it is sent simultaneously to both the European Parliament and to the European Council. Lobbying to the Directorate General of specific departments on relevant or pending issues can help shape proposals that are in progress.

Step 3. European Parliament and the Council of Ministers to Agree
A proposal becomes law only when the Council and Parliament agree on identical text of the proposal and amendments. If Council and Parliament cannot agree, there will be no new law.

The Parliament is tasked with the “first reading” – essentially stating a position on the proposal and including any amendments it deems necessary. The Council then does its first reading of the proposal and any amendments Parliament might have added. If an agreement is reached
during these readings, the act can be passed into law (in the form of a directive or regulation). If the Council does not approve the same language that Parliament did or adds additional amendments to what Parliament previously sent a “second reading” must occur. The second reading follows the same process as the first reading.

At that point, if the two bodies cannot come to an agreement, the proposal will be put before a conciliation committee (negotiation process), composed of equal numbers of Council and Parliament representatives. If this committee reaches an agreement, the agreed text is sent again to Parliament and the Council to adopt it as law. If conciliation does not work, the proposal is not passed into law.

Most laws passed in co-decision are adopted either at the first or second reading as a result of good cooperation between the three institutions. Throughout the readings and negotiation process, if necessary, lobbying efforts can work. However, the closer to agreement, the less effective lobbying efforts become.

After a law is passed, the implementation process varies based on multiple factors, especially if it is a regulation or directive. This process will be examined on a case-by-case basis as we look at specific regulations and directives in the six other parts of the series.

**In Recap**

Part One has provided a big-picture view and general information on the major institutional actors generating legislation and regulation for the European Union. Hopefully, you now feel more comfortable with the complex EU legislative process and its institutions. This Part was designed to set the stage to better understand the EU regulations and directives that flow from this process. *Part Two – F-Gas Regulation* will go into detail on the F-Gas Regulation, its current implementation status and regulation review. Part Two will appear in next month’s AHRI Newsletter.

For information, please contact Shelley Pursell ([spursell@ahrinet.org](mailto:spursell@ahrinet.org)).