



EUROPEAN COMMISSION
SECRETARIAT-GENERAL

Deputy Secretary General

Brussels, 22.10.2013
SG.D.2 DJ/cv

NOTE IN REPLY TO AN INTERSERVICE CONSULTATION

Subject: Review of the EU's air pollution framework

Reference: ENV 3150518

The SG gives a positive opinion subject to the following comments being taken into account in a satisfactory manner. We have also suggested modifications to the text of the Communication in the attached document.

- (1) The text of the communication should be restructured and redrafted so as to produce a stronger narrative which explains more clearly and logically the new strategy. This narrative should:
 - Explain that the Strategy is intended to address two key problems – poor compliance with air quality standards and improvements in air pollution impacts over the longer term. This also means presenting and justifying the new regulatory aspects of the strategy much earlier.
 - Present clearly the reasons why there continues to be widespread non-compliance with current air quality standards for the protection of health.
 - Explain how the revised air strategy tackles the underlying reasons for the observed non-compliance with air quality standards and why no changes to the directive on ambient air quality directive are proposed.
 - Highlight the efforts made to maximise the synergies of the new strategy with climate objectives including measures to tackle soot particles (potent short-lived climate species), emissions of nitrous oxide from agriculture and ground-level ozone whilst recognising any relevant trade-offs.
- (2) A better balance between the costs and environmental benefits of the new strategy should be found. For example, the costs associated with scenario 6B in the impact assessment are approximately one quarter of those of the strategy proposed by DG ENV (c.a. €4.7Bn per annum) whilst the decrease in benefits (higher emissions) is relatively small.
- (3) A new climate and energy framework is currently in preparation which is assessing objectives for the year 2030. Given the obvious overlaps between the air strategy and climate/energy policies, DG ENV should establish binding emissions reduction objectives for the year 2030 rather than 2025 so as to provide

maximum coherence between policy frameworks and maximum certainty to investors.

- (4) The proposed legislation would establish for the first time an emission ceiling for methane which is one of a basket of greenhouse gases covered by the Kyoto Protocol and the Union's internal effort sharing Decision. The proposal would also introduce mechanisms for the collective achievement by Member States of their methane emissions reduction obligations. Such mechanisms are also present in the Union's effort sharing decision. Importantly, the proposed ceiling for methane emissions would not lead to any improvement in the observed levels of air pollution (ground-level ozone which is both an important air pollutant and short-lived greenhouse gas). It is clear, therefore, that the intended emission ceiling aims primarily at tackling climate change but introduces competing regulatory requirements and reduced flexibility for the Member States. As such, we think that the proposed methane emission ceiling and associated provisions should be deleted from the proposal on national emission ceilings.
- (5) Under the Unions' greenhouse gas reporting mechanism, the Member States are required to report annually their emissions of climate gases and to prepare emissions forecasts every other year. The data and process used to prepare these climate data are the same as for the intended emissions reporting and forecasting under the new national emission ceilings directive. DG ENV should ensure that climate and air pollution reporting are synchronized as far as possible with identical reporting years for the biannual reports and common reporting deadlines for the annual reports. The option of allowing the Member States to prepare a single inventory report covering climate and air pollution aspects should be encouraged to simplify reporting obligations for the Member States. There should be an indication in the Communication of the Commission's intent to investigate further simplification of the reporting obligations as part of the REFIT action covering the pollutant transfer register.
- (6) The new reporting obligations in the proposal on medium scale combustion plants should be integrated into the proposal on the national emissions ceilings directive so as to simplify and ensure coherence between all reporting obligations. In both instances, care should be taken to minimise the reporting burden in general – but particularly for SMEs. The use of electronic means for notification, reporting and monitoring should be encouraged, possibly via a request that Member States set up national web systems rather than expecting individual plants to create their own systems and maintain records for 10 years (a period for which no justification is presented). We would also like to see a fixed proposal for the frequency of inspections included in the MCP proposal to avoid divergent and potentially burdensome national measures.
- (7) The proposal on a new national emissions ceilings directive places significant obligations on Member States to undertake monitoring of the impacts of air pollution on various ecosystem types. Although this monitoring would be helpful to inform policy development, it is not necessary to monitor compliance with the emissions reduction obligations. As such it is more appropriate to recommend to Member States that they undertake such monitoring as part of their national programmes to implement the revised directive. It should not be mandatory. In general, monitoring is conducted according to test methods based on CEN standards, Member States should take care to ensure that SMEs have been sufficiently represented during the development of these standards and any related

national standardisation technical committees. This is particularly relevant for the proposals relating to MCP.

- (8) The proposal on national emission ceilings contains several delegations of power for the Commission to adapt annexes and provisions. These delegations are expressed in very general terms. The wording needs to be much more specific in describing what the Commission will be empowered to change and under which circumstances.
- (9) Both legislative proposals should contain commitments for the Commission to evaluate the legislation against the objectives stated in each proposal. A minimum period of 5 years should be specified before each evaluation is completed to allow the collection of sufficient information for the evaluations.
- (10) The Communication and impact assessment refer to an evaluation which was carried out for the preparation of these proposals. As 'evaluation' usual refers to a self-standing process and output, which is not the case here, we prefer that DG ENV refers instead to a review.
- (11) Although the national emissions ceilings directive repeals and replaces the current legislation, it also introduces new significant obligations on Member States (for instance by establishing new "reduction commitments"). Therefore, an implementation plan should be prepared to offer assistance in implementation to the Member States and other stakeholders.

After the ISC has closed, the SG will organise a meeting with DG ENV to take stock of the content and balance of the air package, and on the appropriate timing for the proposal to reduce emissions from medium sized combustion plants that are operated predominantly by SMEs and where the cost implications have to be clear.

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Encl.

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