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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. 5/76) for a directive concerning health protection standards for sulphur dioxide and suspended particulate matter in urban atmospheres

Rapporteur: Mr Willi MÜLLER

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PE 44.214/fin.

By letter of 5 March 1976 the President of the Council of the European Communities requested the European Parliament, pursuant to Article 235 of the EEC Treaty, to deliver an opinion on the proposal from the Commission of the European Communities to the Council for a directive concerning health protection standards for sulphur dioxide and suspended particulate matter in urban atmospheres.

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

The Committee on the Environment, Public Health and Consumer Protection appointed Mr Willi Müller rapporteur on 22 March 1976.

It considered the proposal at its meetings of 22 March and 26 April 1976.

On 26 April 1976 the committee adopted the motion for a resolution and explanatory statement unanimously.

Present : Mr Della Briotta, chairman; Lord Bethell, vice-chairman; Mr Willi Müller, rapporteur; Miss Boothroyd, Mr Brégégère, Mr Delmotte (deputizing for Mr Adams), Mr Didier, Mr Evans, Mrs Iotti, Mrs Kruchow, Mr Martens, Mr Ney, Mr Knud Nielsen, Mr Noe', Mr Radoux (deputizing for Mr Walkhoff), Mr Rivierez, Mr Schwabe, Mr Springorum.

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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 statement :

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 directive concerning health protection standards for sulphur dioxide and suspended particulate matter in urban atmospheres

The European Parliament,

- having regard to the proposal from the Commission of the European Communities to the Council¹,
 - having been consulted by the Council pursuant to Article 235 of the EEC Treaty (Doc. 5/76),
 - having regard to the report of the Committee on the Environment, Public Health and Consumer Protection (Doc. 88/76)
1. Welcomes the Commission's proposal for a directive as a further measure aimed at the adoption and implementation of Community rules on air purification;
 2. Regrets, however, that the Commission has not succeeded in keeping to the timetable laid down in the Programme of Action of the European Communities on the Environment of 22 November 1973², and urges the Commission to endeavour in future to implement the Community's environmental protection programme within the prescribed time-limits;
 3. Feels that it would be more appropriate for this proposal for a directive to be based on Article 100 rather than Article 235 of the EEC Treaty, and invites the Commission to consider whether it can alter the legal basis accordingly.
 4. Supports unreservedly the fundamental purpose of the directive, which is to ensure the observance of health protection standards in urban atmospheres without at the same time causing any deterioration in the quality of the atmosphere in regions where air pollution is slight;

¹ OJ No C 63, 19.3.1976, p.5

² OJ No C 112, 20.12.1973, p. 1

5. Notes with satisfaction that the Commission, in close collaboration with the World Health Organization (WHO), has succeeded in basing its proposal for a directive on the latest scientific data;
6. Criticizes, however, the fact that the air quality standards proposed by the Commission are to take effect only from 1982 and insists that they should instead enter into force by 1980 at the latest;
7. Requests the Commission to bring forward similarly by two years, i.e., to the period from 1980 to 1985, the period during which provisions may be enacted permitting by way of exception the fixed average daily levels to be exceeded;
8. Welcomes the Commission's view that Member States should be able at any time to impose more severe standards and anticipate the deadlines laid down in the directive, provided that this does not constitute an obstacle to the smooth functioning of the Common Market;
9. Reiterates its frequently expressed objections to the working procedure of the committees on implementing provisions set out in Article 9(3) and again calls on the Commission to take Parliament's general political arguments in regard to the institutional aspect of this question into account in any future proposals for harmonization;
10. Requests that the period of time allowed Member States for the enactment of the laws and regulations required be reduced from 18 months to 12 months, so that the undertakings concerned may have sufficient time to adapt their plant and equipment;
11. Requests the Commission to submit to it in due course the results of the epidemiological studies currently being carried out on the effects of the pollutants sulphur dioxide and suspended particulates on children;
12. Urges the Council to adopt shortly the resolution proposed to it by the Commission concerning the determination of criteria for sulphur dioxide and suspended particulate matter in urban atmospheres, so that the Commission can press on vigorously and intensively with its work in this area;
13. Requests the Commission, pursuant to Article 149, second paragraph, of the EEC Treaty, to incorporate the following amendments in its proposal.

Council Directive on health protection
standards for sulphur dioxide and
suspended particulate matter in urban
atmospheres

Preamble and recitals unchanged

Article 1 unchanged

Article 2

1. Member States shall take the measures necessary to ensure compliance by 1982 with the health protection standards for sulphur dioxide and suspended particulates in urban atmospheres listed in Annex I, without prejudice to other Community provisions in this field.

2. Between 1982 and 1987, in the event of particularly unfavourable meteorological conditions (such as persistent temperature inversions), concentrations exceeding the standards for daily levels listed in Annex I may be tolerated by way of exception before measures are taken to reduce emissions, provided that such excess concentrations do not occur for longer than three consecutive days and that daily levels do not exceed the concentrations laid down in Annex II.

Article 2

1. Member States shall take the measures necessary to ensure compliance by 1980 with the health protection standards for sulphur dioxide and suspended particulates in urban atmospheres listed in Annex I, without prejudice to other Community provisions in this field.

2. Between 1980 and 1985, in the event of particularly unfavourable meteorological conditions (such as persistent temperature inversions), concentrations exceeding the standards for daily levels listed in Annex I may be tolerated by way of exception before measures are taken to reduce emissions, provided that such excess concentrations do not occur for longer than three consecutive days and that daily levels do not exceed the concentrations laid down in Annex II.

¹ For full text see OJ No. C 63, 19.3.1976, p.5.

Articles 3 to 10 unchanged

Article 11

1. Member States shall bring into force the laws, regulations and administrative provisions needed in order to comply with this Directive within 18 months of its notification and shall forthwith inform the Commission thereof.

Paragraph 2 unchanged

Article 12 unchanged

Annexes I, II and III unchanged

Article 11

1. Member States shall bring into force the laws, regulations and administrative provisions needed in order to comply with this Directive within 12 months of its notification and shall forthwith inform the Commission thereof.

EXPLANATORY STATEMENTI. General observations

1. This Commission proposal for a directive and the proposal for a Council resolution on health protection standards and the determination of criteria for sulphur dioxide and suspended particulate matter in urban atmospheres are based on Part II, Title I, Chapter 1 of the Programme of Action of the European Communities on the Environment of 22 November 1973¹. This chapter provides for measures that will enable the dangers to human health and the environment from pollution to be objectively evaluated. It is rightly assumed that objective knowledge of the effects of environmental pollution will make it possible, without having resort to arbitrary values, to set limits to the presence of pollutants in the environment and determine quality values for products. These limits will be expressed in terms of standards designed to protect human health and the environment.

2. As the action programme goes on to say, the pollutants for priority investigation have been chosen on the grounds both of their toxicity and of the current state of knowledge of their significance in the health and ecological fields. Sulphur compounds and suspended particles in the atmosphere are amongst the pollutants for priority investigation (first-category pollutants).

Unfortunately, the Commission has not succeeded in keeping to the timetable laid down in the programme. It was envisaged, in fact, that the Commission would submit to the Council the results of its work by 31 December 1974 and suitable proposals as work progressed. The Committee on the Environment, Public Health and Consumer Protection deplores the delay of more than one year and asks the Commission to endeavour in future to keep to the deadlines laid down in the environmental action programme.

3. The Commission has chosen Article 235 of the EEC Treaty as the legal basis for its proposal for a directive. This is admissible on the grounds that the Treaty does not provide the powers necessary to attain, in the course of the operation of the common market, one of the objectives of the Community. In its explanatory memorandum the Commission points out that no air quality standards exist for sulphur dioxide and suspended particulates in any Member State. There are, however, various national provisions on the reduction of sulphurous emissions from industrial plants. Hence the Commission based its proposal for a directive on the use of fuel oils with the aim of decreasing

¹ OJ No. C 112, 20.12.1973, pp. 12-13

sulphurous emissions (Doc. 501/75) on Article 100 of the EEC Treaty and offered the perfectly logical justification that the different legal provisions of the Member States might lead to unequal conditions of competition and thus directly affect the functioning of the common market.

Your committee considers it more suitable, therefore, that the legal basis for this proposal for a directive should also be Article 100, which lays down that the Council shall, acting unanimously on a proposal from the Commission, issue directives for the approximation of such provisions laid down by law, regulation or administrative action in Member States as directly affect the establishment or functioning of the common market. The Commission is asked to consider whether it is possible to base the proposal for a directive on Article 100 of the EEC Treaty.

4. There is a further parallel to the abovementioned proposal for a directive on the use of fuel oils to decrease sulphurous emissions: the methods described in Annex II of the earlier proposal for measuring the sulphur dioxide and suspended particulate matter concentration in the ambient air are identical with the methods prescribed in the proposal for a directive on sulphur dioxide and suspended particulates now under consideration (see Annex III).

II. Principal contents of the proposals.

(a) Proposal for a directive

5. Article 1(1) sets out the purpose of the directive, which is to establish health protection standards for sulphur dioxide and suspended particulates in the atmosphere in order to safeguard public health against contamination of urban atmospheres.

The Committee on the Environment, Public Health and Consumer Protection agrees with this purpose.

Article 1(2) defines health protection standards as the maximum concentrations of sulphur dioxide and suspended particulates which must not be exceeded during a specified period of time.

These health protection standards are set out in detail in Annexes I (air quality standards) and II (exceptional concentrations).

6. Article 2(1) states that compliance with these air quality standards in urban atmospheres must be ensured by 1982 at the latest.

Your committee is surprised to find that this provision is not to enter into force for another six years. The Commission proposal would leave urban populations unprotected against excessive concentrations of sulphur dioxide and suspended particulates for the next six years. Your committee is aware of the difficulties of giving immediate effect to an environmental ruling in

this particular area, but regards a six-year adjustment period as excessive. It insists therefore on the air quality standards being applied by 1980 at the latest, especially since the 1973 action programme states that concentrations of sulphur dioxide and suspended particulates in the atmosphere are to be dealt with as a matter of priority.

7. Article 2(2) contains a derogation to the effect that between 1982 and 1987 the mean daily levels listed in Annex I may be exceeded by way of exception in the event of particularly unfavourable meteorological conditions, such as persistent temperature inversions. An essential condition, however, is that these concentrations should not continue for longer than three consecutive days and that the mean daily levels should not exceed the exceptional concentrations laid down in Annex II.

Here again your committee cannot see any justification for such a long transition period. In its explanatory memorandum on the proposal for a directive (observations on Article 2), the Commission advances as its reason for a transition period lasting until 1987 the fact that Member States must be given an opportunity 'to take all the measures required'. The same memorandum, however, states expressly that 'health protection is the main consideration underlying the formulation of this proposal for a directive, but account is also taken of the economic and technical aspects'. If we contemplate the effects of Article 2, we are certainly not left with the impression that health protection was the main consideration when the Commission was drawing it up.

Your committee requests, therefore, that the transition period provided for by the Commission in respect of these temporary derogations be brought forward to the period 1980 to 1985.

8. There is another interesting comment by the Commission on Article 2. It reads as follows (see the top of page 5): 'The Member States may always impose more severe air quality standards and anticipate the deadlines laid down in Article 2, provided that these standards are not an obstacle to the proper functioning of the Common Market'.

Your committee welcomes this concession, since it meets a request it has already expressed in regard to other environmental directives proposed by the Commission.

9. Article 3 lays down the procedure by which Member States are to inform the Commission of existing pollution levels and of the measures planned to reduce them. In addition, Member States are required to establish a measurement network in all urban areas in which there is a danger of health protection standards being exceeded.

Your committee is in agreement with these provisions.

10. Article 4 contains the important provision that implementation of the directive ensuring compliance with the health protection standards in urban atmospheres must not lead to a deterioration in the quality of the atmosphere in regions where air pollution is slight. Thus the standards are to be observed by reducing sulphurous emissions and not by a greater dispersal of pollutants in the atmosphere.

This basic provision is supported unreservedly by your committee.

11. Article 5 provides that analysis of the concentrations of the pollutants must be carried out in accordance with the methods set out in Annex III. Your committee is not in a position to assess this analysis procedure and relies on the good judgement of the experts employed by the Commission to work out the procedure.

12. Article 6 requires the Commission to assist in the practical application of the directive by

- (a) harmonizing the measurement of suspended particulates
- (b) facilitating the exchange of information on measures taken to improve the situation in zones in which pollution levels exceeding the health protection standards have been recorded.

Your committee welcomes this provision.

13. Articles 7 to 9 lay down the procedure for amending the directive in order to bring the health protection standards and methods of analysis into line with the latest developments in science and technology.

It is planned to set up a committee consisting of representatives of the Member States and chaired by a representative of the Commission. The Committee on the Environment, Public Health and Consumer Protection and the European Parliament have repeatedly objected to the working procedure of this committee as set out in Article 9. Your committee associates itself, therefore, with the European Parliament's stand on the institutional aspect of this problem which is in line with its general political arguments. This request appears in paragraph 9 of the resolution.

14. Article 10 provides that Annexes I (air quality standards), II (exceptional concentrations) and III (methods of analysis) are an integral part of the directive, i.e. their provisions are binding on all Member States.

15. Article 11(1) requires Member States to bring into force the laws, regulations and administrative provisions needed in order to comply with the directive within 18 months of its notification and to inform the Commission thereof forthwith.

Article 11(2) stipulates that Member States must communicate to the Commission the texts of the provisions of national law which they adopt in the field covered by the directive.

Your committee calls for a reduction in the period from 18 months to 12 months, not least because it has advocated that the health protection standards should come into force in 1980 rather than 1982, as laid down in Article 2(1). This would give the undertakings affected ample time to adapt their plant and equipment.

(b) Proposal for a Council resolution

16. The proposal for a Council resolution contains

- (a) criteria for damage to health (dose-effect relationships) caused by sulphur dioxide and suspended particulate matter (set out in Annex I),
- (b) permissible exposure levels for these two pollutants in urban areas on the basis of public health requirements (set out in Annex II).

The proposal for a resolution confines itself to urban areas in which suspended particulates arise mainly from the combustion of fossil fuels. As the Commission points out in its explanatory memorandum, this limitation is due to the fact that in all the scientific studies examined, suspended particulate matter is always considered from an overall point of view without taking its chemical composition into consideration.

In particular, analysis of the criteria enables levels of pollution or nuisance, which have certain undesirable or harmful effects on man or on the environment, to be determined and exposure levels for the preparation of quality objectives and standards to be fixed.

17. If it adopts the proposal for a resolution, the Council will approve the four criteria listed in Annex I for establishing the relationships between given exposures to sulphur dioxide and suspended particulate matter and observable effects on man. These criteria may be summarized as follows:

- (a) Higher mortality rates and increase in the number of hospitalizations among aged persons, when the concentration of sulphur dioxide and suspended particulate matter (hereinafter referred to as 'concentration') exceeds simultaneously a mean value of 500 microgrammes per cubic meter of atmosphere ($\mu\text{g}/\text{m}^3$) for several days.
- (b) Subjective exacerbation of symptoms in patients suffering from chronic bronchitis, when the concentration exceeds simultaneously a mean value of 250 $\mu\text{g}/\text{m}^3$ for several days.
- (c) Temporary changes in the pulmonary respiratory function of sensitive persons, when the concentration reaches a mean daily level of slightly lower than 250 $\mu\text{g}/\text{m}^3$.
- (d) Increased vulnerability to infection of the lower respiratory tract and decrease in the maximum expiratory flow rates in children, when the concentration exceeds a mean value of 100 $\mu\text{g}/\text{m}^3$ over a long period of time.

18. It is also envisaged that the Council will decide to select the exposure levels listed in Annex II in order to work out basic principles for determining quality objectives and standards, which will form part of measures to protect human health against pollution caused by sulphur dioxide and suspended particulate matter.

Annex II contains the following two exposure levels for preparation of quality objectives and standards:

- (a) Short-term¹ exposure to 250 to 500 $\mu\text{g}/\text{m}^3$ of sulphur dioxide with a simultaneous concentration of 250 $\mu\text{g}/\text{m}^3$ of suspended particulate matter,
- (b) Long-term² exposure to a concentration of 100 $\mu\text{g}/\text{m}^3$ of sulphur dioxide and suspended particulate matter.

19. It is also interesting to note that the Commission's reference to the in-depth epidemiological study currently being carried out within the framework of the Community's environmental research programme to gain further insight into the effects of sulphur dioxide and suspended particles on children.

Your committee asks the Commission to forward the results of this study as soon as they are available.

In conclusion, your committee finds that it can approve of the proposal for a resolution without any reservations. It requests the Council to adopt the resolution shortly, so that the Commission can press on vigorously with its work in this field.

¹ Short-term exposure is defined as exposure to 24-hour concentrations not to exceed a few days and occurring quite infrequently in the course of a year.

² Long-term exposure is defined as an exposure to mean concentrations over periods exceeding one year.

