

The Thematic Strategy on Air Pollution and proposal for a new Air Quality Directive

A paper by Defra

1. The Forum took a paper at it's last meeting summarising the Commission's Strategy on air pollution and their proposals for a new air quality Directive. Matters have moved on since then and developments are summarised below.
2. In particular, negotiations have started in the Environment Working Group on the new Directive. The paper outlines some of the issue raised in the course of those negotiations, and the UK position. We would welcome views from Forum Members on the issues arising in these negotiations.

Background

3. The Commission's Clean Air for Europe (CAFE) programme was established to develop a long-term, strategic and integrated policy to protect against the effects of air pollution on human health and the environment. On 21 September 2005, the Commission published the Thematic Strategy on Air Pollution, a proposal for a new air quality Directive and an Impact Assessment covering both.
4. The Thematic Strategy establishes the Commission's policy for air quality across the European Union in 2020. This is expressed as the extent to which air pollution must be reduced to deliver a level of protection for public health and the environment. The Strategy also sets out the Commission's policy on reducing air pollution over the period up to 2020, based on assumptions about measures that would be necessary to deliver the Strategy.
5. The revised Air Quality Directive was the first measure introduced under the Thematic Strategy on Air Pollution; subsequently proposals have been published for setting new emission standards for cars and light good vehicles (EURO 5). The proposal for the Directive consolidates and streamlines existing air quality legislation¹ and introduces a new standard for fine particles in line with World Health Organisation advice. The proposed new Directive does not consolidate the fourth Air Quality Daughter Directive²; this will be merged later using a "codification" procedure, after transposition of the new Directive.
6. An Impact Assessment has been produced by the Commission which covers both the Strategy and Directive.

Developments during the UK Presidency to December 2005

7. Under our Presidency, discussion began in the Environment Working Group of the Strategy and Impact Assessment. A small amount of time was also provided for initial negotiations on the Directive. There was a public debate at the December Environment Council on 2 December on overarching themes in the Strategy and Directive. The press release following that debate is at

¹ The Air Quality Framework Directive (96/62/EC) and the First (1999/30/EC), Second (2000/69/EC) and Third (2002/3/EC) Daughter Directives, as well as the Exchange of Information Decision (97/101/EC)

² 2004/107/EC

http://ue.eu.int/ueDocs/cms_Data/docs/pressdata/en/envir/87368.pdf. The Chairman (Margaret Becket) summarised the discussion in these terms:

- Most of us think that the long term aims of the strategy can be considered in advance of legislative measures;
- However, we will need to examine the legislation under consideration by the Commission, in detail, using balanced impact assessment;
- We broadly welcome the proposal for a new Directive which is a good example of better regulation;
- It will be necessary in further negotiations on the Directive to recognise the value of increased flexibility for Member States to meet their obligations;
- It will also be important that public health considerations are maintained in the negotiations and that the aim of reducing people's exposure to air pollution, in particular fine particles, is remembered.

Developments under the Austrian Presidency from January 2006

8. The Austrian Presidency has continued discussion in the Environment Working Group of both the Thematic Strategy, and the Directive.
9. The March Environment Council adopted Council Conclusions on the Strategy on 9 March 2006. There will be no further consideration of the Thematic Strategy in the Environment Council. The Conclusions are at http://ue.eu.int/ueDocs/cms_Data/docs/pressdata/en/envir/88721.pdf. In summary, the Conclusions:
 - Welcomed the Strategy and the underpinning scientific work;
 - Recognised that while improvements in air quality have been made there will remain problems even in 2020, and that Member States have problems complying with present legislation;
 - Underlined that implementation of the Strategy should support the objectives of the Lisbon and Sustainable Development Strategies; and
 - Made clear that any further measures that were brought forward should be subject to through impact assessments.
10. The Austrian Presidency is hoping for political agreement to the proposals for the new Directive at the next Environment Council on 26/27 June.
11. We understand that the Rapporteur, Holger Kraemer, is expecting to publish a draft First Reading proposal shortly. The European Parliament's Environment Committee will consider his report on 24/25 April. There seem to be provisional plans for a Plenary debate in June to adopt a First Reading position.

Negotiations on the proposal for an air quality Directive

12. Negotiations are still at a fairly early stage, and the positions of some Member States are still developing. It is too early to predict the specific outcomes.

Provisions introducing flexibility

13. Where limit values should apply (Article 13 & Annex III). The Commission's proposal makes clear that limit values should apply everywhere. That is the UK's understanding of the provisions of the present Directive.
14. Negotiations have opened up the issue of whether such a broad provision should continue to apply. For example, it has been suggested that limit values should not apply in areas where there is no likelihood of people being exposed to the pollutant over a period significant in relation to the averaging time of the limit value. This is an issue on which positions are still developing and it is hard to judge the likely outcome. The Commission is opposed to any change to their proposals in this regard.
15. Disregarding natural contributions. The Commission's proposal introduces provisions (Article 19) allowing Member States to disregard any natural contributions to pollution levels. Their thinking is that Member States can only control anthropomorphic sources. This differs from the provisions in the current legislation which deal with 'events' as it would allow natural contributions to be excluded from compliance measurements throughout the year. The most significant impact would be on PM measurements.
16. There is no agreed definition of what constitutes 'natural' contributions. For southern Member States, it includes Sahara dust, but sea salt can make a significant contribution elsewhere (and is detectable even in central England). There isn't yet any convergence on either the definition nor the conditions under which the provision could be used.
17. Postponement of attainment deadlines. The Commission's proposal introduces provisions (Article 20) that allow Member States up to 5 years further to comply with existing limit values. For those limit values that should already have been met, Member States can only invoke these provisions in specific areas where exceedence is due to site-specific dispersion characteristics, adverse climatic conditions or transboundary pollution.
18. Many Member States support extending these proposals and allowing longer than the 5 years proposed, and widening the circumstances in which an extension of time can be agreed. Some are saying that a further 5 years may not be sufficient for Member States to comply, and suggesting that two periods, each perhaps of 5 years, might be allowed, subject to safeguards.

Provisions on PM_{2.5}

19. The Commission's proposal introduces a new standard for PM_{2.5} (Article 15). This new objective follows the principle of exposure reduction. Particles are the main health risk with no safe level of exposure, and exposure reduction works to reduce the levels of particles everywhere. It moves the focus of legislation away from highly localised hotspots towards reducing general exposure.
20. The Commission's proposal introduces a non-mandatory provision to reduce PM_{2.5} by an average of 20% across each Member State at urban background locations. This 20% reduction is due to be reached by 2020, and is relative to the average concentration over 2008-2010 at urban background locations. The Commission has proposed that the level should be reviewed after 5 years when further monitoring information is available.

21. The Commission's proposal also introduces a mandatory $25 \mu\text{g}/\text{m}^3$ annual average 'concentration cap' to be met in 2010. This is a relatively lax safeguard, to protect the population from unduly high risk of exposure to particles. It applies everywhere, including at hotspots. It is to all intents and purposes a limit value, albeit not intended as the main policy driver for $\text{PM}_{2.5}$.
22. Exposure reduction. There seems to be little disagreement with the proposal to introduce an exposure reduction provision.
23. Rather the focus is on the form of the obligation. Very broadly, whether there should be a non-mandatory target between 2010 and 2020, or alternatively whether the text should include some mandatory obligations to come into effect part way through the period. Even if a mandatory second phase were to be written into the Directive, the level of any provision would still be subject to the review. There are also issues about the level at which either the target or the obligation would be set.
24. Concentration cap. Member States are dividing into those that want a mandatory concentration cap, as in the Commission's proposal, and those that want it to be a 'target', that is a non-binding value. Again there are issues about when the cap comes into effect.

UK position

25. The UK position has been informed by a Regulatory Impact Assessment (RIA) on both the Commission's Strategy and on the proposal for the Directive. (***Copies attached***). A revised RIA on the draft Air Quality Directive is being prepared, looking at a wider range of possible outcomes.
26. The net effect of the flexibilities is to reduce health protection, if only because it will mean that compliance with existing limit values may be delayed. The UK would not want the flexibilities to result in a significant weakening of public health protection, but sees their value in addressing implementation problems with the current legislation.
27. On the other hand, measures to reduce exposure to $\text{PM}_{2.5}$ would improve public health. Fine particles are the pollutants with the greatest impacts for human health and the WHO advice is that there is no safe level of exposure. There must be some question over the effectiveness of the Commission's proposal for a non-mandatory target. We would prefer the Directive to include a mandatory standard for fine particles of a 10% or 15% reduction in particle levels, to apply after the review. The review should be brought forward to 3 years after the Directive comes into effect; it would consider the level of any mandatory obligation (which could be set to zero).
28. It is important for the UK that the Directive strikes the right balance between flexibilities and measures to reduce air pollution and improve public health. However it is also important to bear in mind that the UK is 1 among 25 Member States and changes have to be negotiated.