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ENV 86
ENER 30
IND 17
TRANS 65
ENT 18
SAN 49
AGRI 59

NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
Subject:	PREPARATION FOR THE COUNCIL (ENVIRONMENT) MEETING ON 5 MARCH 2020 Draft Council conclusions on Improvement of Air Quality – Adoption

1. On 28 November 2019, the Commission released a Staff Working Document on a Fitness Check of the Ambient Air Quality Directives 2004/107/EC and 2008/50/EC¹. On 19 December, the Council (Environment) took note of the Commission's presentation of the Fitness Check and welcomed the Presidency's intention to prepare Council conclusions on this topic.
2. According to findings of the Fitness Check, the Air Quality Directives have been partially effective in achieving their overall objectives of reducing air pollution and curbing its adverse effects. The Commission intends to use the findings of the fitness check to inform further reflections on whether the Air Quality Directives continue to provide the appropriate legislative framework to ensure protection from adverse impacts on, and risks to, human health and the environment.

¹ doc. 14712/19

3. Therefore, the aim of the Presidency in preparing these draft Council conclusions has been, on the one hand, to take stock of the progress made so far in improving air quality, and on the other hand, to provide a forward-looking perspective to guide future work, including in the context of actions relevant to air quality announced in the Commission's communication on the European Green Deal.
4. Following a presentation of the Fitness Check on 6 December 2019, the Working Party on the Environment (WPE) examined a first draft of the Council conclusions prepared by the Presidency² at its meeting on 14 January 2020. Following the last WPE meeting on 7 February, the Presidency has prepared a set of draft Council conclusions in light of the latest discussions and written comments from delegations, as well as informal contacts with Member States.
5. The latest version of the draft Council conclusions can be found in the Annex to this note. The Presidency considers that the present text strikes a fair balance between the different positions of the delegations. It contains some new Presidency compromise suggestions³ which aim to address the main remaining concerns, in particular with respect to the following:
- harmonised approaches to air quality vs. flexibility left to Member States in application of measures (paragraph 6, linked with paragraph 19);
 - the level of ambition as concerns the future proposals to revise air quality standards announced under the Green Deal (paragraph 9a), as well as in relation to the broader clean air policy context (paragraph 14), and emissions from transport (paragraphs 16 and 16a);
 - further considerations in the context of reviewing air quality standards (paragraph 9b);
 - specific initiatives for cost-effective health improving measures in areas with particular geographical or climatological characteristics (paragraph 20).

² doc. 5087/2020

³ New or changed text as compared to the previous version of the draft conclusions (document 5087/2/20 REV 2), are marked as **bold and underlined** and deleted text is indicated by [...].

In addition, to accommodate other requests, the Presidency suggests some further changes in paragraphs 7, 9, 12, 13 (linked to paragraph 18), 15, 18a, and 21, which it believes should be acceptable to delegations.

6. The Committee of Permanent Representatives is therefore invited to examine the revised draft conclusions as set out in the Annex with a view to adoption by the Council (Environment) at its meeting on 5 March 2020.

Improvement of Air Quality
- draft Council conclusions -

THE COUNCIL OF THE EUROPEAN UNION,

1. RECALLS the Communication "A Europe that protects: Clean air for all"⁴, which sets out policy efforts of the EU to support and facilitate cost-effective measures to reduce emissions from different sectors taken by Member States to meet their national emission reduction targets and ambient air quality standards, recognises joint actions undertaken, identifies funding possibilities, gives an overview of state of play and of compliance, and proposes further enforcement actions and the way forward;
- 1a. RECALLS that according to the 7th Environmental Action Programme, it should be ensured that by 2020 outdoor air quality in the Union has significantly improved, moving closer to WHO recommended levels;⁵
2. RECALLS the first EU Clean Air Outlook, [...] ⁶, which projects that [...] full implementation of the package of measures adopted by the co-legislators since the 2013 Clean Air Programme [...] can deliver fine particulate matter concentrations in most of the EU below the World Health Organization (WHO) guideline value by 2030 and ensure significant reduction of health impacts;

⁴ doc. 9048/18

⁵ Decision No 1386/2013/EU of the European Parliament and of the Council of 20 November 2013 on a General Union Environment Action Programme to 2020 'Living well, within the limits of our planet' (L 354, 28.12.2013, p. 171).

⁶ doc. 10360/1/18 REV 1

3. RECALLS its conclusions on the Special Report No 23/2018 by the European Court of Auditors entitled "Air pollution: Our health still insufficiently protected"⁷, in which it stressed the need for further effective air quality measures and coherent legislation across Union policies, as well as the need to take the latest scientific evidence on human health impacts into account and the WHO guidelines into consideration;
4. WELCOMES the Fitness Check of the Ambient Air Quality (AAQ) Directives⁸ and TAKES NOTE of the findings therein; TAKES NOTE of the conclusion that the AAQ Directives have been broadly fit for purpose and are coherent with the overall EU clean air policy framework, including in particular the National Emissions Ceilings (NEC) Directive; RECOGNISES that the Directives form a coherent regulatory basis for improving air quality in the EU and for harmonised assessment criteria for air quality across the EU;
5. RECOGNISES that EU clean air policy has contributed significantly to improving air quality in the EU, with less people exposed to harmful air pollution compared to 2008; STRESSES, however, that air pollution remains the most important environmental cause of health problems in the EU, which is estimated to cause more than 400 000 premature deaths each year; RECALLS that people in urban areas are particularly exposed; ACKNOWLEDGES that air pollution has harmful effects on ecosystems and contributes to the loss of biodiversity;
6. WELCOMES the fact that [...] the AAQ Directives have guided the establishment of representative high-quality monitoring of air quality, set clear air quality standards, and facilitated the exchange of reliable, objective and comparable information on air quality across Member States, including to a wider public, which has led to increased public awareness and supported implementation and enforcement of air quality standards; **ACKNOWLEDGES, however, that some concerns have been raised about the fact that certain provisions allow, in some instances, for a degree of discretion regarding the design of the monitoring network**;

⁷ doc. 15782/18

⁸ doc. 14712/19

7. UNDERLINES that the established air quality standards, in particular limit values, have led to significant improvement of air quality over the past decade; CONSIDERS therefore that it is essential to keep using limit values in order to protect the health of citizens;
ACKNOWLEDGES that the AAQ Directives have nevertheless not been fully effective and that there is scope for improvements to the existing framework to ensure that good air quality is achieved across the EU such that harmful effects on human health and the environment as a whole are avoided; [...];
8. DRAWS ATTENTION to the finding that the requirement under the AAQ Directives to take remedial action in case of observed exceedances has been decisive in triggering improvements in air quality but ACKNOWLEDGES that [...] action [...] taken at local, national and EU level has not always been sufficient to meet air quality standards and keep exceedances as short as possible and that implementation challenges remain in a number of areas, including the need to ensure coherence of action both between different levels of governance and between different sectors;
9. WELCOMES the aim of the Commission, as set out in its Communication on the European Green Deal [...] to further tackle pollution through preventive and remedial actions and the planned actions to address air pollution therein; STRESSES the importance of drawing on the lessons learnt from the evaluation of existing air quality legislation, including the results of the Fitness Check, in order to consider whether the current legal framework should be revised to enable a more efficient and effective implementation and enforcement of air quality provisions taking into account the latest scientific evidence on human health and environmental impacts; STRESSES that any legislative proposal should be, where appropriate, subject to a comprehensive impact assessment;

- 9a. NOTES that for certain pollutants, the EU air quality standards are identical to the current WHO air quality guideline levels; nevertheless NOTES with interest the Commission's intention to propose a revision of air quality standards to align them more closely with the WHO air quality guidelines, which are currently being reviewed and updated, and LOOKS FORWARD to discussions on such proposals; STRESSES that the main aim of strengthening the air quality standards is to reduce the negative impact of air pollution on health and the environment; UNDERLINES the importance of **striving to achieve the WHO air quality guideline levels [...], thus contributing to the relevant United Nations Sustainable Development Goals; however, NOTES WITH CONCERN that despite efforts to reduce air pollution at both EU and Member State level, in many Member States air quality standards are still not being met for some pollutants and that [...] action needs to be taken at all levels as soon as possible;**
- 9b. ENCOURAGES the Commission to complement the revision of the air quality standards, in particular limit values, which have been effective and remain essential to ensure a minimum protection level, with further considerations on how an approach based on [...] average exposure indicators could contribute to a reduction of overall exposure of the general population in all areas, **while taking into account the impact on vulnerable groups,** within the designated zones and agglomerations in accordance with Directive 2008/50/EC ⁹ [...], and to the improvement of human health; furthermore INVITES the Commission to consider reviewing current air quality standards for ozone **in the light of assessment of various factors influencing ozone levels, such as** geographical and climatological circumstances[...];
10. NOTES that the main air pollution sources in the EU are transport, both road and non-road; the commercial, institutional and households sector, including residential heating; energy production and distribution; energy use in industry; industrial processes and product use; agriculture and waste;

² Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe (OJ L 152, 11.6.2008, p. 1).

11. [...]
12. UNDERLINES that effective clean air policy requires an integrated approach to ensure coherence, which is regularly evaluated, with other environmental policies and with all other relevant policy areas, including EU emission source legislation, such as climate, **industry**, energy, transport and agriculture, and which makes better use of synergies between all policy areas, making use also of the opportunities offered by the circular economy, while avoiding trade-offs; HIGHLIGHTS the need to ensure co-benefits between climate action and air quality, as duly assessed in the Commission Communication 'A Clean Planet for All - A European strategic long-term vision for a prosperous, modern, competitive and climate neutral economy'¹⁰, resulting in improvements to air quality, human health and ecosystems;
13. STRESSES that air quality objectives should be fully reflected in EU emission source legislation and in the design of new sectoral initiatives under the European Green Deal, including on [...] smart mobility, smart sector integration, renewable energy, renovation of buildings, residential heating, agriculture and industry, including energy production; **in that context UNDERLINES the joint responsibility of the EU and Member States to maintain and improve air quality;**
14. CONSIDERS that there is need for regular scrutiny of the impact of the EU Clean Air Policy Package as a whole; in this respect, NOTES that the biennial Clean Air Outlook provides regular updates on the air quality situation in the EU, and that the first Commission report to the European Parliament and the Council on the progress made on the implementation of NEC Directive is to be adopted in 2020; further NOTES that an evaluation of the IED is underway, which will further assess the links between air quality legislation and legislation limiting the emissions of the largest industrial installations and combustion plants in Europe, and **CALLS on the Commission to ensure that** all relevant industrial sources of air pollution are addressed;

¹⁰ doc. 15011/18

15. HIGHLIGHTS that the Fitness Check found that the EU's energy and climate policies overall support improvement of air quality; EMPHASISES that it is essential that new energy efficiency and **emission** requirements under the Ecodesign Directive, including for heaters and boilers, and new EU sustainability criteria under the Renewable Energy Directive¹¹, the reform of the Common Agricultural Policy (CAP) as well as the national air pollution control programmes (NAPCPs) and the national energy and climate plans (NECPs), [...] contribute to continued coherence and synergies, while avoiding trade-offs, such as in the case of biomass use for both residential heating and medium-sized combustion installations;
16. WELCOMES the Commission's intention to take further action with regard to decarbonisation of the transport sector towards zero-emissions mobility, which should also result in co-benefits for air quality; AGREES with the importance of addressing air pollution caused by emissions from transport, especially in cities, including the impact of imported second-hand vehicles; WELCOMES [...] the Commission's intention to propose more stringent air pollutant emissions standards for combustion-engine vehicles, considering also pollutants that are not yet regulated; ENCOURAGES strengthening [...] of in-service [...] checks for compliance with the pollutant emission standards for combustion-engine vehicles, with particular emphasis on testing during real driving conditions;
- 16a. WELCOMES the Commission's intention to propose further action to reduce emissions from maritime transport, [...] while taking into account the global nature of international shipping, and from inland shipping, and measures to improve air quality in ports and near airports; in that context, SUPPORTS the effort made by the contracting Parties to the Barcelona Convention at COP 21 concerning the Mediterranean sea;

¹¹ Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82).

17. TAKES NOTE of the finding of the Fitness Check that ammonia emissions, which are a precursor for particulate matter, have decreased considerably less than other emissions in the past decade inter alia due to a lack of specific source legislation; RECOGNISES that the agricultural sector is the main source of total ammonia emissions across the EU; UNDERLINES that measures to mitigate such emissions are already available and technically and economically viable and ENCOURAGES a wider application of those measures; NOTES that while the CAP has undergone a series of reforms to enhance its environmental sustainability, further improvements depend on the outcome of negotiations on its future beyond 2020;
18. [...] WELCOMES efforts towards joint action already undertaken **by the EU and Member States**, such as Clean Air Dialogues and the Clean Air Forum; SUPPORTS enhanced cooperation between the EU, the Member States, and regional and local authorities; SUPPORTS also regional cooperation and concrete action to combat transboundary air pollution, including under the UNECE Air Convention;
- 18a. **RECOGNIZES that, according to recent assessments¹², air pollution in the Western Balkan countries, especially in urban and industrial areas, remains a serious cause of health problems and has a negative effect on the environment; WELCOMES the Commission's intention to adopt a Green Agenda for the Western Balkans with a view to supporting the countries in that region in taking effective action in the green transition, including the improvement of air quality by aligning with the EU air quality standards**;

¹² **[European Environment Agency Brochure No 1/2020: 'Western Balkan Countries - 20 years of cooperation with the EEA - Key developments, achievements and the way ahead' \(EEA, Copenhagen, 2019\)](#)**

19. AGREES that additional guidance and, as appropriate, clearer requirements in the AAQ Directives themselves, **taking into account specific local circumstances where necessary,** could help to make monitoring, modelling and the provisions for plans and measures and their implementation more effective and efficient and further harmonise approaches applied to them [...]; SUPPORTS the Commission's planned actions in this regard in the framework of the European Green Deal [...], including by making use of opportunities offered by digitalisation [...];
20. EMPHASISES the need for the necessary investments to support the reduction of air pollution as the benefits of air quality policies greatly exceed their implementation cost; UNDERLINES the importance of prioritisation, **increased accessibility** and take-up of available funding for air quality improvements [...]; **in this regard,** SUGGESTS specific [...] **initiatives to be made available, without prejudice to the result of the ongoing MFF negotiations, for the most cost-effective health improving measures** in areas with particular geographical or climatological characteristics which make compliance with air quality limit values more challenging; SUGGESTS, where appropriate, to use the joint benefits for climate goals and air quality as leverage for private investment;
21. In line with its conclusions of 5 December 2019 ¹³, CONSIDERS that energy taxation as a fiscal instrument can be an important part of the economic incentives that steer successful energy transition, driving low greenhouse gas emissions and energy savings investments while contributing to sustainable growth [...];
22. NOTES the ongoing evaluations of the relevant State aid guidelines, including the environmental and energy State aid guidelines, in order to reflect the policy objectives of the European Green Deal, supporting a cost-effective transition to climate neutrality by 2050, and to facilitate the phasing out of fossil fuels, in particular those that are most polluting, while ensuring a level playing field in the internal market; EMPHASISES the need to fully reflect air quality objectives in the evaluation of the State aid guidelines;

¹³ doc. 14608/19

23. STRESSES the importance of providing for a just and fair transition, and UNDERLINES the need for clean, affordable and sufficient energy for all European citizens, in particular low-income households;
24. EMPHASISES that improving public awareness and information on air quality and its health and ecosystems impact is crucial [...] and SUPPORTS the Commission in its efforts in this respect.
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