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MEETING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on the Environment
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Subject:	Air Quality Directive: WPE on 20 October 2023 - Presidency steering note

With a view to the meeting of the WPE on 20 October 2023 on the abovementioned Commission proposal, delegations will find attached steering note prepared by the Presidency.

Presidency Steering Note

WORKING PARTY ON THE ENVIRONMENT- 20 October 2023

Ambient Air Quality Directive (AAQD)

This steering note accompanies a revised Presidency compromise text (doc. 13947/23) on the abovementioned Commission proposal, which will serve as a basis for the discussion at the WPE on 20 October. The discussion will be focused on the parts of the text where the Presidency considers further debate may be needed.

The annex to this note contains clarifications on the additional amendments introduced by the Presidency to the revised text, following the WPE on 5 October. It also explains the changes made to Annex V, which had not previously been amended.

During the WPE the debate will be structured as follows:

1. Round 1. Assessment of Ambient Air Quality and Monitoring supersites: Article 8 and Article 10, Annex VII and related recitals: 8, 9, 10, 11 12, 13, 26, 27 and 41
2. Round 2. Data quality objectives: Annex V and related recital: 14
3. Round 3. Average exposure calculation: Annex I Section 5 and related recital: 18
4. Round 4. Flexibility and level of ambition of the proposal: Article 18 and related recital: 30
5. Round 5. Air quality plans, Article 19 and related recitals: 31, 32
6. Round 6. Access to justice, compensation and penalties: Art. 27 to 29 and related recitals: 39, 40
7. Round 7. Remaining recitals not discussed above:

- 1, 2, 3, 4, 5, 6: introduction and objectives (Art. 1)
- 4,7: review (Art 3)15-22: air quality standards (Art. 2, 13, Annex I)
- 23: alert and information thresholds (Art. 15)
- 24: more stringent measures (Art. 13 and 15)
- 25: maintaining air quality status (Art. 12)
- 28: critical levels for protection of vegetation (Art. 14, Annex IV)
- 29: contributions from natural sources, winter-sanding, winter-salting (Art. 17)
- 33: short-term plans (Art. 20)
- 34: transboundary pollution (Art. 21)
- 35, 36, 37: information and reporting (Art. 23)
- 38: amendments to annexes (Art. 24)
- 41, 42: implementing and delegated acts (Art. 25 and 26)
- 43, 44: transposition (Art. 31)
- 45: subsidiarity and proportionality

ANNEX - Changes contained in the revised Presidency compromise text (Articles and Annexes)**Article 4**

In the new definition (29a) the term air quality zone has been removed so it is ensured that the AERO is calculated in a region. According to the proposal, any Member State can, if it wishes, establish an area that coincides with the region defining the average exposure territorial unit, so there is no need to be explicitly in the definition as it can be confusing.

Definition (38) on public concerned has been aligned with the IED and Article 27, which only refers to Articles 19 and 20.

Article 8

In paragraphs (2) and (4) the term “level” has been substituted by a reference to the classification.

Paragraphs (3) and (5) has been modified to make the use of modelling applications or indicative measurements optional when the level of pollutants exceeds a limit value.

In addition, a new paragraph has been included so that, if a Member State decides not to carry out additional measurements, it can directly notify the exceedance.

Article 10

In urban supersites, the flexibility not to measure Annex II pollutants is made optional, so that a Member State may choose to measure them independently of their levels.

A new flexibility is included for Member States where the number of rural background stations exceeds the number of urban background stations; however, it is important to remember that this flexibility only applies to new pollutants, as the current obligations of the AAQ Directive are maintained.

Annex VII

For total deposition, only indicative measures shall be done in coherence with annex V.

Article 13

Article 13(7) has been modified for legal drafting reasons.

Article 15

Article 15(5) has been modified for legal drafting reasons.

Article 18

Article 18 has been amended to extend it to energy poverty conditions as well as to situations where projections resulting from modelling applications show that the limit values cannot be achieved by the compliance date in Annex I.

Regarding the maximum additional period that MS may request as a second postponement, it has been increased by one year under certain conditions.

Article 19

A further year has been proposed to allow the measures in the plan to become effective, as requested in the last WPE by most delegations.

Article 24

As the Commission is only empowered to adopt delegated acts amending the technical annexes related to ambient air quality assessment, the reference to "information to be included in air quality plans and information to the public" has been deleted.

Annex I

Section 5. Average exposure reduction obligation for PM_{2,5} and NO₂

As requested by several delegations, a staged approach is proposed for the consecution of the average exposure concentration objectives. This approach aims at a more balanced achievement of these targets by taking into account different percentages depending on the AEI achieved.

Annex V

Annex V.A. Uncertainty for measurement and modelling applications for ambient air quality assessment

Annex V.A. A minor modification has been made to Table 1 and Table 2 titles, in which *long-term* and *short-term* references were clarified.

Table 1-Uncertainty for measurement and modelling of long-term (annual mean) concentrations

SO₂ has been incorporated in the table, as it has an annual limit value in Annex I. Having the same annual limit value for the protection of human health than NO₂ and the uncertainties given for it in the current Directive, where SO₂ and NO₂/NO_x also coincide, the same uncertainties are proposed for SO₂ than for NO₂/NO_x.

Third paragraph

The third paragraph establishes that the uncertainty of measurement data used for ambient air quality assessment shall not exceed either the absolute value or the relative value expressed in this Section. As this wording has caused some confusion among delegations, it has now been clarified, as in some cases the relative or the absolute value should be selected.

Fourth paragraph

In the Presidency compromise text presented in September (Doc. 12848/23), an amendment was introduced to reflect the idea that some fixed measurements may not be appropriate to assess the model. The aim of this was to reflect that it would not be correct to use data, for example, from traffic stations with a very small representativeness area (tens or a few hundred square meters) to evaluate the performance of typical regional or national models used for air quality assessment, which have and spatial resolution of 1x1 or 5x5 km², and also to address the issue of small-scale concentration variations, e.g. in street canyons and other cases where the representativeness area could not be relevant for model evaluation. Nevertheless, the wording proposed by the Presidency has raised doubts in some delegations. As the new definition in Article 4(21a) for 'modelling application' already takes into account modelling as a system of models and sub-models (so the suggestion to limit the sampling points used to assess the model would be relevant for individual models, but would not hold for modelling applications), that wording suggested by the Presidency has been deleted.

Annex V. B Data coverage of measurements for ambient air quality assessment

- O₃ and related NO and NO₂: For the sake of clarity, an additional row is proposed as some doubts arose in relation to the absence of NO in the table, as it now appears in Directive 2008/50/EC with respect to O₃, where "O₃ and related NO₂ and NO" are present in Annex I for Data quality objectives for ambient air quality assessment.
- BC, Ammonia (NH₃), UFP, particle size number distribution of UFP, nitric acid, levoglucosan, organic carbon (OC), elemental carbon (EC), chemical composition of PM_{2.5}, PM oxidative potential: In previous drafts of the compromise text some new pollutants were added to integrate data coverage of measurements for nitric acid, levoglucosan, OC and EC, chemical composition of PM_{2.5} and PM oxidative potential. These pollutants were added to the same row as BC, ammonia, UFP and particulate size number distribution of UFP, already present in the Commission proposal. For all of them, a minimum data coverage for fixed measurements of 80% was proposed. This value is considered too high by some delegations, which propose to lower data coverage for these pollutants. For this reason, a coverage value of 45% is proposed to lower it to assimilate this data coverage to that of metals, as proposed by some delegations.
- Reference to EC/OC: the complete reference to "organic carbon (OC)" and "elemental carbon (EC)" is proposed instead of OC/EC so that it is not misunderstood to mean that a ratio EC/OC is needed in this case.

Third paragraph.

A reference to the possibility to use random sampling for annual mean values via fixed measurements for pollutants with a minimum data coverage below 80% is included, as the wording due to changes in the text implied that random measurements could no longer be used, whereas some Member States use them. As a compromise solution, a reference to the possibility of using random measurements for pollutants with a high percentage of data coverage (80%) has been added in the third paragraph.

Annex VI

The CEN reference method 'EN 12341:2014 Ambient air - Standard gravimetric measurement method for the determination of the PM₁₀ or PM_{2,5} mass concentration of suspended particulate matter' was updated to the new version EN 12341:2023 published in August 2023.

Article 27

During the debate in the WPE on 5 October, some delegations expressed concern about the implications of paragraph 2 of this article. For this reason, the Presidency suggests deleting that paragraph.

Article 28

The Presidency suggests adding "in accordance with national procedures" at the end of paragraph 1.

Annex IX

An addition is incorporated in section 1(a) to specify that Member States should aim to provide as much data as possible in real time and adapt their methods progressively to make this possible when necessary.

Annex XI

The annexes have been included in the correlation table, as they were missing from the Commission proposal.