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CCAL gives conditional support to new EU Air Quality Directive

The Campaign for Clean Air in London (CCAL) thanks President Barroso, the European Commission, the Council of Ministers and the European Parliament for resolving their legislative impasse and agreeing new legislation to reduce Europe's air pollution

CCAL's support for the new Directive is conditional, however, on: the European Commission taking a robust stance in assessing and allowing any time extensions from existing requirements; the United Kingdom (UK) Government committing now to comply with this new legal framework; and there being no special "let-outs" for the UK

Quotes included from leading London MEPs of all four political parties

Summary

The European Parliament voted by 619 votes to 33 (with four abstentions) on 11 December to approve a new European Union (EU) Directive on ambient air quality and cleaner air for Europe (the Directive) that is expected to merge four current EU Directives on air quality and a related Council Decision into a single text. The new Directive is still subject to formal approval by Europe's Environment Ministers who are due to meet on 20 December. It is expected to be implemented by the EU in mid-2008.

Commenting on this result, Simon Birkett, Principal Contact for the Campaign for Clean Air in London (CCAL), said: "The Campaign for Clean Air in London thanks President Barroso, the European Commission, the Council of Ministers and the European Parliament for resolving their legislative impasse and agreeing new legislation to reduce Europe's air pollution. Unexpectedly, the final outcome achieves one or two key objectives for each of those stakeholders, instead of a weaker Directive, that has been feared for two years, which would not have met, for any of them, any of their key objectives. London's MEPs particularly have worked hard in defense of existing environmental protections."

CCAL's support for the Directive is conditional. Simon Birkett said "The new EU Directive is only better than the current regime of several EU Directives on air quality if: the European Commission takes a robust stance in assessing and allowing any time extensions from existing requirements; the United Kingdom (UK) Government commits now to comply with this new legal framework; and there are no special "let-outs" for the UK. Otherwise, Londoners would have been better off pressing for the robust enforcement of existing EU legislation - even though that could have taken years."

"Nero fiddles while Rome burns"

UK Government Ministers need to stop their obsessions with obscuratation and using cost-benefit analysis as their only tool for decision making. At the same time as the European Parliament was approving new air quality legislation for Europe, the Secretary of State for Transport published her Department's Autumn Performance Report for 2007 to Parliament that admitted that only four of seven objectives are currently being met for air quality (for which the Department for Transport (DfT)

and the Department for Environment, Food and Rural Affairs (Defra) are jointly responsible).

As if this was not bad enough, the report notes that:

- “DfT is meeting current objectives for all air pollutants in 95 percent of the UK and only a few hotspots remain” [CCAL: DfT is seemingly dismissing the fact that there are widespread breaches of legal limits in London that affect tens of thousands of people];
- “measured concentrations of sulphur dioxide show that there were no breaches” [CCAL: DfT forgets to mention that “modeled” (i.e. not measured) breaches have resulted recently in infringement action by the European Commission against the UK]; and
- DfT plans to replace 2010 objectives for PM₁₀ by a new PM_{2.5} exposure reduction objective which will be reported upon next year [CCAL: DfT is planning to move rickety goal posts].

Simon Birkett said: “Government Ministers at DfT and Defra need to: demonstrate the political will to reduce air pollution; introduce genuine openness into their dealings with MPs and the public; and replace simplistic cost-benefit analysis with a commitment to meet legally binding obligations for air pollution through the sensible prioritisation of effective measures (whether in respect of air quality or climate change).” He went on to say “Nero fiddles while Rome burns.”

Comments from leading London MEPs (in alphabetical order):

John Bowis MEP, Conservative Spokesman for health and the environment, and former MP for Battersea, said: “Reluctantly I have to accept we cannot do better now than the deal we have struck. Had the British Government given more of a lead, we might have been able to do more to save the lives and health of Londoners. But it is a significant step in the right direction.”

Jean Lambert MEP, Green Party, said: “Air pollution kills far more people than road traffic accidents in London. Poor air quality, from coarse particulate matter alone (PM₁₀), is the cause of around 1,000 premature deaths and a similar number of hospital admissions every year.

“The Green Party wanted the new Directive to go much further than it has done. However, it is to be welcomed for introducing at last specific provisions to protect people from health problems associated with fine particulate matter (PM_{2.5}) and for limiting the time Member States have to meet the legal obligations for air quality that they have missed so spectacularly since 2005. We urge the Government to meet their obligations.”

Baroness Ludford MEP, Liberal Democrat, said: “The EU has succeeded in both simplifying and strengthening air pollution laws in order to get tough on improving air quality across Europe. If governments act early, then they can meet the targets. We must have no repeat of experience in London where deadlines for cutting diesel pollution were missed.

“The UK government must not duck and weave on these pollution-cutting goals. It should tackle head on hotspots at key sites such as central London and must not try to wriggle out of pollution limits around Heathrow in order to sneak through a third runway.

“The environmental impact of a third runway would be intolerable, and the noise and air

pollution impact on the health of local residents unacceptable. The European Commission will have to be vigilant that the new air quality rules are fully respected not sidelined.

“I strongly congratulate activists like the Campaign for Clean Air in London for their determined pressure for these more effective controls which, if properly implemented, could seriously cut the shocking tally of 1,600 deaths a year in London as a result of air pollution.”

London Labour MEP, Claude Moraes said, “I am pleased with the new proposals for Ambient Air Quality. For the first time there will be EU-wide limits on the background concentrations of these dangerous fine particles. Labour MEPs worked hard to secure these strict limits.” He added, “This is good news for urban areas, particularly for London which is blighted by the scourge of air pollution. Hopefully this new legislation will have a profound impact on the health and wellbeing of Londoners and others living in towns and cities throughout the UK.”

What is in the new EU Directive?

The European Commission (the Commission) published a news release on 11 December about the new EU Directive on ambient air quality and cleaner air for Europe:

<http://www.europa.eu/rapid/pressReleasesAction.do?reference=IP/07/1895&format=HTML&aged=0&language=EN&guiLanguage=en>

and an eleven-page detailed briefing on 12 December on the new Directive:

<http://www.europa.eu/rapid/pressReleasesAction.do?reference=MEMO/07/571&format=HTML&aged=0&language=EN&guiLanguage=en>

The text of the new Directive will:

1. Re-confirm the existing binding daily based and annual Limit Values for coarse particulate matter, so called PM₁₀, with the possibility of conditional time extensions for up to three years after the entry into force of the Directive i.e. 2008 plus 3 = 2011 (i.e. 2011 for daily Limit Values and January 2012 for annual Limit Values);
2. Re-confirm the existing binding hourly based and annual average Limit Values for nitrogen dioxide, so called NO₂, and benzene with the possibility of conditional time extensions for a maximum of five years i.e. 2010 plus 5 = 2015 (i.e. to January 2015);
3. Set an annual average target value for fine particulate matter, so called PM_{2.5}, of 25 µg/m³ to be attained where possible in 2010 and a binding Limit Value set at the same level to be attained everywhere by 2015 to ensure that EU citizens are not excessively exposed to fine particles;
4. Set an Exposure Reduction Target which requires that average concentrations for PM_{2.5} in urban background areas be reduced by 10-20% between 2010 and 2020 since these are considered most representative of the population exposure (with a sliding scale of smaller reduction targets for Member States with low or medium exposure and higher targets for those with higher average exposure in 2010);
5. Set a binding Limit Value for national average exposure for PM_{2.5} of 20 µg/m³ for the

- three year average over 2013/2014/2015;
6. Set an indicative Limit Value for PM_{2.5} of 20 µg/m³ in 2020 with the latter subject to a mandatory review by the Commission in 2013 to confirm the value laid down (of 20 µg/m³) or to propose that it be altered;
 7. Require the assessment of air quality everywhere except: in any locations where members of the public do not have access and there is no fixed habitation; on factory premises or at industrial installations to which all relevant provisions concerning health and safety at work apply; and on the carriageway of roads and the central reservations of roads except where there is normally pedestrian access to the central reservation;
 8. Be linked to a Declaration by the Commission on future EU measures which undertakes also to put forward new legislation in 2008 to reduce air pollution emissions at source; and
 9. Incorporate specific references to measures addressing sensitive segments of the population such as children.

Examples of enforcement action ahead in respect of air quality

The success or failure of the new regime may depend ultimately on the determination of the European Commission to enforce the new Directive. In this context, it is reassuring to read that the Commission is already preparing for the task by ensuring that adequate resources are available for dealing with any requests for time extensions in respect of specific locations where PM₁₀ Limit Values are in breach and is organising technical support in order to be able to objectively analyse whether the conditions are fulfilled. Given also the close links between the climate change and air quality aspects of air pollution, it seems highly likely that the Commission will enforce the new Directive fiercely.

Particular enforcement opportunities include:

1. Infringement proceedings are already underway against several Member States for failures to communicate air quality plans. CCAL is submitting a Freedom of Information request to Defra to discover whether the UK is included in this group. As mentioned above, infringements were also launched in June 2007 against five Member States, including the UK, that exceeded the sulphur dioxide Limit Values in 2005;
2. The Commission has made clear that it will institute infringement proceedings against Member States where legislation is not implemented according to the Treaty;
3. The UK will have a grace period of a several months only after the new Directive enters into force in mid-2008 to apply for time extensions for London since legally binding PM₁₀ Limit Values are being breached. The Government will have to show in respect of London that “it has taken all reasonable measures to achieve compliance but has been unable to achieve it” and seek extra time to reach compliance “provided a plan is developed to ensure compliance at a later date”. This flexibility is linked to strict conditions to be assessed by the Commission. During the period of any limited extension granted, the UK will have to take all appropriate measures in London to ensure compliance with the Limit Values as fast as possible. Compliance with the higher limit value plus a margin of tolerance will have to be ensured in London during that period;
4. In respect of the Limit Values for NO₂ that are due to be met by January 2010, the UK Government will need to make the same case as for PM₁₀ if any time extensions are to be sought. CCAL has already written to the Commission putting it on notice that it does not consider that the UK is making “reasonable efforts”, never mind “all reasonable efforts”, to

- meet these obligations. If the Commission agrees with CCAL, it is possible that no time extensions will be allowed for the UK to meet its NO₂ obligations in January 2010;
5. With the Commission, both legislators and those implementing the measures united now in demanding that any time extensions for meeting Limit Values for PM₁₀ should not exceed three years, CCAL will press vigorously for the full weight of European infringement action against the UK if it fails to meet in full its new legal obligations for PM₁₀ Limit Values by 2011 or shows signs of missing them (assuming of course that it successfully makes the case for a time extension in the first place);
 6. The obligation for the UK to have its national average exposure for PM_{2.5} of 20 µg/m³ for the three year average over 2013/2014/2015 should be a serious and immediate “wake up call” for it to consider very thoroughly how to apply the new Exposure Reduction objective (i.e. much more so than if there had been only an Exposure Reduction Target). The requirement to reduce average concentrations nationally means that there will need to be a concerted national policy to do so and it will become more attractive to work with neighbouring countries e.g. to tackle large polluters and meet National Emission Ceiling obligations. It should also put more pressure on individual cities to reduce not only the highest concentrations in the city, or even its urban background concentrations (which are the main target of the exposure reduction objectives), but also to make a reduction in the city’s wider emissions footprint leading, hopefully, to a more sustainable future nationally. CCAL intends to watch closely London’s progress in this regard;
 7. Clearly the Limit Value for PM_{2.5} for 2015 will be binding and have no flexibility (i.e. no possibility of time extensions). As the European Commissioner commented to the European Parliament’s Plenary Session on Monday 10 December “the value of this legal obligation cannot be overstated”. CCAL intends to make full use of it in due course;
 8. The proposed Declaration by the Commission, as well as a new recital in the legislation, demonstrates a serious intent by it to support the ambition to improve air quality with work addressing emissions at source. This Declaration in 2008 will be used by CCAL to challenge the UK Government to implement measures that are already available (and not, for example, currently being used to their full extent e.g. proper implementation of IPCC, support for early fleet renewal etc) and new ones as they become available;
 9. The applicability of the Limit Values everywhere has been re-emphasised in Annex III of the new Directive with the limited exclusions referred to earlier. It does not represent any noticeable weakening of their effectiveness relative to the current legal position whereby ambient air quality does not apply in workplaces and indoors. CCAL will therefore press for adequate monitoring and assessment of air pollution throughout London; and
 10. The new references to the importance of children’s health as a special concern in air quality plans and programmes are most welcome and will enable CCAL to press for action to be taken to protect these groups.

Why is all this not enough?

Air pollution in the EU, notably from fine particulate matter and ground-level ozone, presently causes the premature death of almost 370,000 citizens every year and reduces average life expectancy – across the whole population – by an average of nine months. In the most polluted areas, the loss of life expectancy may be up to two years and perhaps more.

Against this background, CCAL is deeply concerned that:

1. Even if all current policies are fully implemented, particulate matter and ground level ozone will still be causing 290,000 premature deaths a year in the EU by 2020. Premature deaths due to particulate matter would be reduced by 63,000 in 2020 with the new legislation;
2. The recent European Environment Agency (EEA) report called “Air pollution in Europe 1990-2004” stated in its overall Executive Summary that “Ambient concentrations of particulate matter and ozone in the air have not shown any improvement since 1997 despite the decrease in emissions. This might be due to meteorological variability and growing long-distance transport of pollutants”;
3. Climate change will make it more difficult not less to meet these obligations so action must be more determined at an earlier stage. We ask the Commission and others to take note of the need to “aim ahead of the changes” not “make excuses and play catch up”. The same EEA report stated that meteorological variability has already been affecting air pollution concentrations by between 15-20% in recent years (page 6) and 15-25% in respect of PM10 (page 36);
4. the World Health Organisation recommends that the maximum annual exposure concentration for PM_{2.5} should be 10 µg/m³ which compares poorly even to the binding Limit Value for national average exposure for PM_{2.5} of 20 µg/m³ set for the three year average over 2013/2014/2015 and the indicative Limit Value for PM_{2.5} of 20 µg/m³ in 2020 (which is anyway subject to a mandatory review by the Commission in 2013);
5. The forest area affected by acidification in 2020 will only be halved compared with the business as usual scenario and the total area of ecosystems affected by eutrophication will be reduced by only 27%;
6. Even Korea and China, with the huge challenges they face, have already adopted the “Euro III” vehicle emission standards developed by the EU and are planning to adopt the “Euro IV” standards just a couple of years later than the EU itself;
7. Even the European Parliament’s Rapporteur of the new Directive, in his opening address to the Plenary Session, commented that “the United States is a decade ahead of us” while recognising that no “cut and paste” transfer of solutions is possible; and
8. There are worrying signs that biomass burning and local power generation could structurally undermine efforts to improve air quality.

After years of failure in the UK’s air pollution policy, insufficiently ambitious targets and a lack of strict enforcement by the EU, it is essential that UK Government Ministers grip now a problem that they have let get completely out of control.

Further comments from the Campaign for Clean Air in London

Simon Birkett, Principal Contact for the Campaign for Clean Air in London, said:

“The Campaign for Clean Air in London (CCAL) gives conditional support to the new EU Directive on air quality that has just been approved by the European Parliament.

“CCAL thanks all those who have been involved in thrashing out a compromise, between seemingly strong conflicting demands, that has been reached finally between the European Parliament, the

European Commission and the Council of Ministers. Key contributors have included President Barroso, Commissioner Dimas, the EU Environment Directorate General's Air Quality team over more than two years and the civil servants in Defra's Air & Environment Quality team. Unexpectedly, the final outcome achieves one or two key objectives for each of those stakeholders, instead of a weaker Directive that has been feared for two years, which would not have met, for any of them, any of their key objectives. CCAL understands that there has been no intransigence by any one group of stakeholders in the final negotiations that could have resulted easily in a weaker outcome for Europe's citizens.

"London MEPs particularly have worked hard in defense of existing environmental protections. The Campaign for Clean Air in London highlights particularly the special contributions of John Bowis, Jean Lambert, Baroness Ludford and Claude Moraes whose tireless work will surely save countless London lives. Without their personal contributions, deadlines would have been delayed further and the Council of Ministers would not have accepted a tightening of controls on fine particulate matter. It is very worrying that so much effort has been needed to defend existing environmental protections when the world needs to be strengthening them rapidly.

"In reaching the above package, the European Parliament has achieved a lower objective for PM_{2.5} of 20 µg/m³, which is the air pollutant deemed most important for health, compared to the 25 µg/m³ wanted by the Council of Ministers. At the same time, the Council of Ministers has achieved a shorter backstop date for the implementation of the current Limit Values for PM₁₀ and NO₂ compared to the longer delays that some MEPs (outside London) had been seeking. This has been done without: introducing new burdens of proof before Member States can take action to improve air quality; two stage time extensions; or a weakening of the effectiveness of the Limit Values everywhere that had been feared.

"We should all remember though that the new Directive, which is still subject to final approval by Europe's Environment Ministers next week, is needed first to provide a legal framework to address breaches of EU legal limits for air quality (that were breached widely in London for coarse particulate matter, so called PM₁₀, in 2005 and 2006 and for which no legal framework currently exists for allowing time extensions) and second to address the fine component within that breached Limit Value, so called PM_{2.5}, which poses the greatest health risk. Improvements in one aspect of particulate matter air pollution should not obscure the fact that Member States, including the UK, failed to meet their legal obligations for the wider definition of particulate matter air pollution that were due to be met by 2005 in legislation dating back to 1999. These may not now be met in full until January 2012."

CCAL's support for the new Directive is therefore conditional. Simon Birkett said "The new EU Directive is only better than the current regime of several EU Directives on air quality if: the European Commission takes a robust stance in assessing and allowing any time extensions; the United Kingdom Government commits now to comply with this new legal framework; and there are no special "let-outs" for the United Kingdom. Otherwise, Londoners would have been better off pressing for the robust enforcement of existing EU legislation - even though that could have taken years."

"CCAL urges the UK Government to confirm unequivocally now its commitment to comply, at a minimum, with the letter and spirit of the new EU Directive on ambient air quality and cleaner air for Europe so that, at last, Londoners can have confidence that action will be taken to protect their health. Otherwise Londoners will have to rely solely on the determination of the European

Commission to enforce this legislation robustly in the coming months and years.”

Contact

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Simon can be contact through the Campaign home page on the BBC Action Network

Notes for Editors:

1. The Campaign for Clean Air in London has only one aim which is to achieve urgently at least World Health Organisation recommended standards of air quality sustainably throughout London. Given that most of these standards have been required to be met since 1999 legislation by January 2005 (for particulate matter i.e. PM₁₀) and January 2010 (for nitrogen dioxide NO₂), CCAL has been campaigning to achieve these standards by the London 2012 Summer Olympics as part of the “greenest Games” in modern times.

CCAL has received support from Mayor Livingstone, Sian Berry (the Mayoral candidate for the Green Party), leading politicians of all political parties in London, all the amenity societies representing Central London and leading business including the Central London Partnership, London First and The Knightsbridge Business Group. It is a cross-party campaign.

2. In 2001 the European Commission launched the Clean Air for Europe (CAFÉ) programme. Following the CAFÉ analysis, the Commission adopted in September 2005 its Thematic Strategy on Air Pollution. By establishing objectives for 2020 in the strategy, the Commission set the level of ambition regarding air quality in the EU up to year 2020. The Thematic Strategy was accompanied by a proposal to merge the Air Quality Framework Directive and three daughter directives containing minimum requirements for air quality.