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EUROPEAN COMMISSION

Brussels, 11.12.2009
C(2009)9855 final

COMMISSION DECISION

of 11.12.2009

on the notification by the United Kingdom of an exemption from the obligation to apply the limit values for PM₁₀ in zones UK0001, UK0002, UK0004, UK0010, UK0024, UK0027, UK0029 and UK0034

(Only the English text is authentic)

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe¹, and in particular Article 22(4) thereof,

Whereas:

- (1) The United Kingdom notified the Commission by letter registered on 5 May 2009 of an exemption from the obligation to apply the daily limit value for PM₁₀ in all 8 air quality zones listed in the Annex to this Decision as well as the annual limit value in zone 1. The air quality limit values for PM₁₀ have been legally binding since 1 January 2005 in accordance with Council Directive 1999/30/EC of 22 April 1999 relating to limit values for sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead in ambient air².
- (2) In accordance with Article 22(2) of Directive 2008/50/EC a Member State may be exempt from obligations to apply the limit values for PM₁₀ if all appropriate abatement measures have been taken at national, regional and local level to achieve compliance by the deadlines in Directive 1999/30/EC, the principal cause of the exceedance can be attributed to site-specific dispersion characteristics, adverse climatic conditions or transboundary contributions, and that an air quality plan is established demonstrating that conformity with the limit values will be achieved before the new deadline.
- (3) The Commission identified certain relevant information as missing from the original notification, and requested the competent authorities of the United Kingdom by letter dated 15 June 2009 to complete the notification. The United Kingdom submitted the additional essential information by letter dated 6 July 2009. The period for the Commission's assessment of those zones therefore starts from the day following the date of official receipt of that information, i.e. 14 July 2009.

¹ OJ L 152, 11.6.2008, p. 1.

² OJ L 163, 29.6.1999, p.41.

- (4) The notifications have been assessed in accordance with the guidance set out in the Commission Communication on notifications of postponements of attainment deadlines and exemptions from the obligation to apply certain limit values pursuant to Article 22 of Directive 2008/50/EC on ambient air quality and cleaner air for Europe³, ("the Communication"). The notification was submitted using the forms set out in the Staff Working Paper⁴ that accompanied the Communication.
- (5) The Commission notes that according to the annual air quality report submitted by the United Kingdom in September 2009 in accordance with Commission Decision 2004/461/EC of 29 April 2004 laying down a questionnaire to be used for annual reporting on ambient air quality assessment in accordance with Council Directives 96/62/EC and 1999/30/EC and in accordance with Directives 200/69/EC and 2002/3/EC of the European Parliament and of the Council⁵, all notified zones complied with the annual PM₁₀ limit value. Seven of the eight notified zones, i.e. zones 2 to 8, were in compliance with daily limit value in 2008. The Commission finds that the concentration levels in those zones should be maintained below the relevant limit values in accordance with Article 12 of Directive 2008/50/EC.
- (6) The competent authorities have provided data for the year 2005 as specified in the Annex to be used as reference year and basis for the assessment. The Commission notes that that year is appropriate for the purpose of assessing if the conditions are fulfilled.
- (7) According to Article 22(1) of Directive 2008/50/EC, Member States must establish an air quality plan demonstrating how conformity with the limit values will be achieved in the relevant zones before the new deadline. The plan must meet the minimum requirements set out in Section A of Annex XV to Directive 2008/50 and must according to Article 22(4) be communicated to the Commission together with the notification.
- (8) The United Kingdom's notification was accompanied by several documents including the national air quality strategy from 2007 and a report with a description of all key national abatement measures. Information about local abatement measures has been provided in the Forms accompanying the notification. In their reply to the request for additional information, the competent authorities also provided a reference to the air quality management website through which several local air quality action plans were identified and assessed. The Commission notes that air quality plans are no longer required in zones 2 to 8 since compliance has already been achieved and as a consequence it has not been further assessed whether the documents provided for those zones could be considered to collectively fulfil the requirements of Section A of Annex XV to Directive 2008/50/EC.
- (9) As regards the air quality plan established for zone 1, the Commission notes that the notification refers to a draft air quality strategy by the Mayor of London. According to the draft strategy published for consultation in October 2009, it is expected that the strategy will be adopted in the autumn of 2010. The draft strategy includes several of

³ COM(2008)403

⁴ SEC(2008)2132

⁵ OJ L 202, 7.6.2004, p. 63.

the elements specified in Section A of Annex XV to Directive 2008/50/EC but some important elements are missing, such as a clear timetable for the implementation of the abatement measures envisaged as well as an estimate of the improvement of air quality which can be expected by 2011. The notification also includes references to a number of local air quality action plans relevant for the zone. However, several of those local plans have not been updated for the purpose of demonstrating how compliance will be achieved by 2011 and can, therefore, not be considered relevant for assessing the notification. In view of the significant uncertainty regarding the contents and objectives of the draft strategy and the absence of up-dated local air quality action plans, the Commission considers that an air quality plan demonstrating how compliance with the limit values will be achieved by the new deadline as required in Article 22(1) of Directive 2008/50/EC has not been provided for zone 1. The Commission therefore considers that the United Kingdom has not provided all relevant information necessary for the Commission to assess the notification.

- (10) In order to assess whether the conditions for the PM₁₀ exemption are satisfied, it is necessary to identify the main sources of pollution contributing to the observed concentrations. That source apportionment should be precise enough to allow an understanding of which measures should be taken to address the main sources of pollution.
- (11) The United Kingdom has provided an analysis of the contributing sources by sector and origin for the eight zones. Traffic and industry seem to be the main domestic anthropogenic sources contributing to the high PM₁₀ concentration levels in the local and urban background PM₁₀ component of zones 6 and 8 whilst the remaining zones are mostly impacted by traffic emissions. The Commission finds that the quantification of the sources and origin contributing to the reported concentrations is sufficient to make reliable assessments in all zones.
- (12) The United Kingdom has also quantified the contribution from natural sea salt to observed concentrations in all zones and discounted this contribution for the purposes of compliance with the limit values for PM₁₀.
- (13) The notification states that transboundary air pollution is the chief cause for the high concentration levels in all zones, with the exception of zones 1 and 5 where site specific dispersion characteristics are claimed as well.
- (14) As regards all zones, the competent authorities of the United Kingdom have used an approach for demonstrating the impact of contributions from transboundary pollution that differs from the method suggested in the Communication. However, the Commission is satisfied that the United Kingdom's approach may be considered reasonable and equal to those provided by the method suggested in the Communication. As the method used demonstrates that once the transboundary contributions have been deducted, the limit values could be achieved in the zones 2, 3, 4, 6, 7 and 8, the Commission finds that transboundary contributions may be considered the chief cause for the high concentration levels in those zones. For zones 1 and 5, it is demonstrated that transboundary pollution is an important contributor, but that the number of days exceeding the daily limit value is still slightly above the permitted 35 days even after deducting the transboundary contributions.

- (15) The notification does not indicate whether consultations have been held with the countries in which the transboundary contributions originate as required according to Article 8(6) of Directive 96/62/EC. The Commission recognises however that due to the long range transboundary transport it may not be possible to identify individual sources in the Member States of origin which contribute significantly to the high concentration levels of PM₁₀ in the United Kingdom. In view of the uncertain and multiple origin, the Commission concludes that bilateral consultations would have had limited effect on concentrations levels.
- (16) As regards zone 5, the competent authorities have demonstrated that the criteria indicated in the Communication for site specific dispersion characteristics apply in that zone, and the Commission therefore finds that in addition to transboundary pollution, poor site-specific dispersion may be considered the chief cause of the high concentration levels in zone 5. As regards zone 1, different criteria than those provided in the Communication have been applied, however, the assessment shows that the criteria put forward provide results that may be considered equivalent, and as a consequence the Commission finds that the high concentration levels in zone 1 can be attributed to both transboundary pollution and poor site-specific dispersions.
- (17) In order to assess if all appropriate measures were taken before the 2005 attainment date, it is necessary to consider when an exceedence triggering abatement action pursuant to Directive 1999/30/EC first occurred in the zone, the relevance of the measures taken in relation to the identified sources and the impact of the external factors, such as transboundary pollution or site specific dispersion characteristics.
- (18) Exceedances of the limit values triggering an obligation to take abatement action were recorded prior to the 2005 attainment date in zones 1, 2, 7 and 8. A range of measures were adopted and implemented at the national, regional and local level addressing the relevant sources before the entry into force of the limit values in 2005. In addition, air quality plans were adopted in time with the deadlines resulting from Directive 96/62/EC and 1999/30/EC. Against that background and considering that the measures taken were relevant for addressing the chief sources, the Commission considers that on balance appropriate measures were taken in zones 1, 2, 7 and 8 prior to the 2005 deadline.
- (19) In zones 3 to 6 no exceedences of the limit values were recorded prior to 2005. As a consequence there was no obligation for the competent authority to take abatement action prior to that date. Certain source relevant measures were nevertheless started in all these zones prior to the 2005 attainment date. The Commission considers therefore that the abatement action taken in those zones prior to that date was appropriate.
- (20) In order to assess if compliance with the limit values for PM₁₀ can be achieved at the expiry of the exemption period, it is necessary to consider the concentration levels estimated at that date by the Member State, and the estimated impact of the additional measures proposed to ensure compliance in the air quality plans accompanying the notifications.
- (21) As compliance with the daily limit value has already been achieved in zones 2 to 8, the Commission finds that concentration levels should be maintained below the limit values in these zones and that the limit values should continue to apply in these zones without a margin of tolerance.

- (22) As regards compliance with the annual limit value in zone 1, compliance was achieved in 2008. Considering that the annual mean concentration level must be maintained substantially below to the annual limit value to ensure that the daily limit value can be achieved, the annual limit value should continue to apply in that zone without a margin of tolerance.
- (23) As regards compliance with the daily limit value in zone 1, the forecasts provided by the competent authorities in relation to the daily limit value show that 36 exceedences might be expected in 2011 which is higher than the number permitted. The notification does, however, state that the forecasts of future air quality do not take into account all of the traffic and traffic related measures which are planned for implementation by the Greater London Authority and Transport for London. Nor do the forecasts include the most accurate (and lower) traffic forecasts for London nor any new measures which may be implemented by a revised Air Quality Strategy for London to be finalised in the course of 2010. In view of the significant uncertainty that remains as to the scope and content of the abatement action due to be implemented in zone 1, the Commission cannot assess whether this action will be sufficient to ensure that compliance with the daily limit value is achieved by the expiry of the exemption period in 2011.
- (24) As regards the status of implementation of the legislation listed in Part 2 of Section B in Annex XV to Directive 2008/50/EC, the Commission notes that United Kingdom expects the national emission ceiling set for nitrogen oxides pursuant to Directive 2001/81/EC of the European Parliament and of the Council of 23 October 2001 on national emission ceilings for certain atmospheric pollutants⁶ to be exceeded in 2010. Compliance with the obligations under that Directive is important in order to ensure that the limit values under Directive 2008/50/EC, and in particular the limit values for NO₂ and PM₁₀, can be met in the United Kingdom. The Commission therefore expects that the necessary effort is taken to achieve the national emissions ceilings without delay.
- (25) As regards measures to be considered in accordance with Part 3 of Section B in Annex XV to Directive 2008/50/EC, the Commission finds that the authorities of the United Kingdom have demonstrated that due account has been taken of these abatement measures in all the zones.
- (26) Against that background, the Commission finds that objections should be raised against the notification by the United Kingdom of an exemption from the daily limit value for PM₁₀ in zone 1, on the grounds that it has not been demonstrated that compliance with the daily limit value can be achieved at the expiry of the exemption period in 2011. Objections should also be raised against the notification of an exemption from the annual limit value in that zone, on the grounds that compliance with that limit value has already been achieved.
- (27) As regards zones 2 to 8, the Commission finds that objections should be raised against the notification of an exemption from the daily limit value on the grounds that compliance with that limit value has already been achieved,

⁶ OJ L 309, 27.11.2001, p. 22.

HAS ADOPTED THIS DECISION:

Article 1

Objections are raised against the notification by the United Kingdom of an exemption from the obligation to apply the following limit values for PM₁₀ set out in Annex XI to Directive 2008/50/EC:

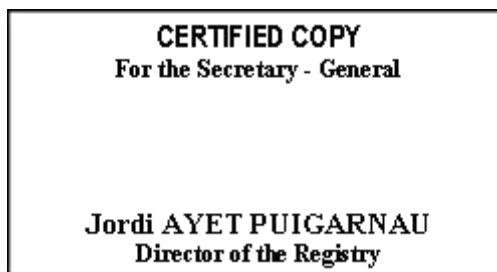
- (a) the daily and annual limit values in zone 1 as specified in the Annex to this Decision;
- (b) the daily limit value in zones 2 to 8 as specified in the Annex to this Decision.

Article 2

This Decision is addressed to the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 11.12.2009.

For the Commission
Stavros DIMAS
Member of the Commission



ANNEX

Zones and agglomerations covered by the notifications in accordance with the delimitations applicable in the annual air quality report for the calendar year 2005 as specified in the table.

Zone Number	Reference year	Zones and agglomerations	Zone name	Relevant PM₁₀ limit value
1.	2005	UK0001	Greater London Urban Area	Daily and annual
2.	2005	UK0002	West Midlands Urban Area	Daily
3.	2005	UK0004	West Yorkshire Urban Area	Daily
4.	2005	UK0010	Brighton/Worthing/Littlehampton	Daily
5.	2005	UK0024	Glasgow Urban Area	Daily
6.	2005	UK0027	Swansea Urban Area	Daily
7.	2005	UK0029	Eastern	Daily
8.	2005	UK0034	Yorkshire & Humberside	Daily