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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels,
C(2009)xxx final

Draft

COMMISSION DECISION

of [...]

on the notification by Cyprus of an exemption from the obligation to apply the limit values for PM₁₀

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(Only the Greek text is authentic)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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) Cyprus notified the Commission by letter registered on 10 April 2009 of an exemption from the obligation to apply the daily and annual limit values for PM₁₀ in the air quality zone CY001A. The air quality limit values for PM₁₀ have been legally binding since 1 January 2005 in accordance with Directive 1999/30/EC of the European Parliament and of the Council 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 notification has 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,

¹ OJ L 152, 11.6.2008, p. 1.

² OJ L 163, 29.6.1999, p.41.

³ COM(2008)403

("the Communication"). The notification was submitted using the forms set out in the Staff Working Paper⁴ that accompanied the Communication.

- (4) The Commission identified certain relevant information as missing from the original notification, and requested the Cypriot authorities by letter dated 25 June 2009 to complete the notification. The Cypriot authorities submitted the additional information by letter dated 28 July 2009.
- (5) The Cypriot authorities have provided data for the year 2007 to be used as reference year and basis for the assessment. A comparison of the air quality data reported to the Commission by the Cypriot authorities for the years 2005 to 2007 show that concentration levels were quite stable in those years. The Commission therefore finds that the 2007 reference year is representative of the air quality situation in 2005 and can be used as basis for the assessment.
- (6) The Cypriot notification was accompanied by an air quality plan for the zone concerned. Although the air quality plan could have included more detail on the planned effects of certain measures to improve the air quality situation (point 8 of Part A of Annex XV), the Commission considers that the plan fulfils the minimum requirements laid down in Part A of Annex XV to Directive 2008/50/EC and is sufficient to assess the notification.
- (7) 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.
- (8) The Cypriot authorities have provided a detailed analysis of the contributing sources by sector and origin. Natural contributions (Sahara dust, soil and mineral dust, soil from surroundings and sea salt) appear to be present in high concentrations on several levels. However traffic, resuspension of road dust and emissions from power plants are also named as main sources contributing to the high concentration levels primarily at the local level.
- (9) The assessment of the Commission confirms that even though the figures provided in the forms on regional and local contributions seem rather low compared to the information provided in other documents referred to in the notification, the identification and quantification of the contributions from the different sources provided by the Cypriot authorities give a relevant and reasonable basis for the assessment.
- (10) The notification provides that transboundary pollution and adverse climatic conditions are the principal causes for why conformity with the limit values could not be achieved by the 2005 attainment date.
- (11) The Cypriot authorities have demonstrated that the annual limit value would be met following a deduction of the transboundary contributions while the daily limit value would still be exceeded by a few more days than the permitted 35 days per year. The

⁴ SEC(2008)2132

notification also refers to adverse climatic conditions and indicates that there is a correlation between high concentration levels in periods of low wind speed and dry weather conditions. The Commission finds that although the criteria set out in the Communication have not been applied, the criteria used by the Cypriot authorities may be considered equivalent. Against that background, the Commission considers that the exceedance situation can be chiefly attributed to a combination of transboundary contributions and adverse climatic conditions.

- (12) In order to assess if all appropriate measures were taken before the 2005 attainment date, it is necessary to consider when an exceedance 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 contributions.
- (13) The first recorded exceedance of the daily and annual limit value occurred in 2004. The notification indicates that a first air quality plan was adopted in 2004 and that some measures were implemented before 2005 although it appears from the air quality plan that not all the measures listed in the plan were implemented prior to 2005. The Commission recognises that the possibilities to take effective abatement action within the short time period remaining until the entry into force of the limit values in 2005 were limited and therefore the Commission considers that on balance the abatement action taken prior to 2005 was appropriate.
- (14) The Commission recognises that it is likely that the transboundary contributions originate in several different Member States as well as from countries outside the European Union and that it may not be possible to identify individual sources in those states that contribute significantly to the high concentration levels of PM₁₀ in Cyprus. The notification indicates that consultations have not been held between Cypriot authorities and the competent authorities in the Member States from which the pollution originates as required according to Article 8(6) of Directive 96/62/EC. The Commission concludes however that in view of the domination of long range transboundary contributions of uncertain and multiple origin, it is likely that bilateral consultations would have had limited effect on reducing the concentration levels.
- (15) 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 plan accompanying the notification.
- (16) As regards the daily limit value, the notification indicates that the PM₁₀ levels will only be slightly reduced in 2011. The Commission notes that the detail of the projected impacts of the measures is not provided and that it is therefore difficult to assess whether compliance with the daily limit value can be met by 2011. Furthermore as the gap between observed levels and the limit value is rather large and the emission scenario with additional measures does not show an improvement before 2011, the Commission finds that the number of days exceeding the daily limit value in 2011 is expected to remain significantly above the 35 permitted days, despite the implementation of existing and additional measures and the deduction of contributions from natural sources. The Commission therefore considers that it is not demonstrated

that compliance with the daily limit value will be achieved at the expiry of the exemption period.

- (17) The Commission finds that, compliance with the annual limit value could be achieved but only if natural contributions can be duly demonstrated and provided that significant abatement action is taken. The competent authorities should therefore ensure that the measures foreseen in the air quality plan are implemented strictly and on time to deliver the necessary effects on the annual PM₁₀ concentration levels at the expiry of the exemption period. However, it should be noted that it will be necessary to reduce the annual mean concentrations substantially below the annual limit value if compliance with the daily limit value is to be achieved.
- (18) The Commission is satisfied that the implementation by Cyprus of the Community legislation listed in Part 2 of Section B in Annex XV to Directive 2008/50/EC, does not give rise to concerns that could have a negative impact on the assessment of whether compliance can be achieved by the new attainment deadline. However, the Commission notes that some installations are operating with permits not providing for emission limit values in line with the best available technique under Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control⁵ or Directive 2000/76/EC of the European Parliament and of the Council of 4 December 2000 on the incineration of waste⁶ and would expect the Cypriot authorities to take the necessary effort to ensure that best available technique is used in all relevant installations.
- (19) It is also apparent from the notification that several important abatement measures listed in Part 3 of Section B of Annex XV to Directive 2008/50/EC have not been considered by the Cypriot authorities. The Cypriot authorities are therefore strongly invited to take those measures into account when drawing up or adjusting their air quality plans.
- (20) Against that background, the Commission finds that no objections should be raised against the exemption from the obligation to apply the annual limit value in Cyprus and that objections should be raised against the exemption from the daily limit value for PM₁₀ on the grounds that it has not been demonstrated that compliance with that limit value will be achieved at the expiry of the exemption period.
- (21) During the exemption period the annual limit value continues to apply in zone CY001A together with a maximum margin of tolerance in accordance with Article 22(3) of Directive 2008/50/EC. In order to provide the Commission with the means for verifying compliance with that provision, Cyprus should provide the Commission, on an annual basis, with data confirming that the concentration levels do not exceed the limit values plus the maximum margin of tolerance.
- (22) In order to ensure that the Commission can check the implementation of the air quality plans and the relevant abatement action, Cyprus should provide information to the Commission on the assessment of air quality as regards the area in exceedance, the length of road in exceedance and the population exposed in the calendar year

⁵ OJ L 24, 29.1.2008, p.8.

⁶ OJ L 332, 28.12.2000, p. 91.

following the date of expiry of the exemption period. In addition the Commission expects that the contribution from natural sources is duly demonstrated.

- (23) The exemption should apply to the zone as it was defined in the reference year as indicated in the notification. In order to ensure that the exemption applies to the territory as defined in this Decision, any changes to the delimitation of the zone during the exemption period should be subject to prior approval by the Commission,

HAS ADOPTED THIS DECISION:

Article 1

1. No objections are raised against the notification by Cyprus of an exemption from the obligation to apply the annual limit value for PM₁₀ set out in Annex XI to Directive 2008/50/EC in zone CY001A. The exemption shall apply until 10 June 2011.
2. Objections are raised against the notification by Cyprus of an exemption from the obligation to apply the daily limit value for PM₁₀ set out in Annex XI to Directive 2008/50/EC in the zone CY001A.

Article 2

1. Cyprus shall for the period 11 June to 31 December 2008, the calendar years 2009, and 2010, and for the period 1 January to 10 June 2011 provide the Commission with data indicating that the concentration level in the zone referred to in Article 1(1) is below the annual limit value plus the maximum margin of tolerance specified in Annex XI to Directive 2008/50/EC. This data may be provided through the annual submission of the questionnaire specified in Commission Decision 2004/461/EC.
2. Cyprus shall by 30 September 2012 provide the Commission with information confirming that compliance with the annual limit value for PM₁₀ set out in Annex XI to Directive 2008/50/EC has been achieved in zone CY001A.
3. Changes to the delimitations of the zone as compared to the delimitations that applied in the reference year 2007 during the exemption period that may affect the scope of the exemption shall be subject to prior approval of the Commission.

Article 3

This Decision is addressed to the Republic of Cyprus.

Done at Brussels, [...]

For the Commission
Stavros DIMAS
Member of the Commissio