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EUROPEAN COMMISSION

Brussels, 11.3.2011
C(2011) 1592 final

COMMISSION DECISION

of 11.3.2011

on the notification by the United Kingdom of Great Britain and Northern Ireland of an exemption from the obligation to apply the daily limit value for PM₁₀ in zones UK0001 and UK(GIB)

(Only the English text is authentic)

COMMISSION DECISION

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on the notification by the United Kingdom of Great Britain and Northern Ireland of an exemption from the obligation to apply the daily limit value for PM₁₀ in zones UK0001 and UK(GIB)

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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 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, provided that the principal cause of the exceedance can be attributed to site-specific dispersion characteristics, adverse climatic conditions or transboundary contributions, and an air quality plan is established demonstrating that conformity with the limit values will be achieved before the new deadline.
- (3) On 11 December 2009³ the Commission raised objections to the exemption under Article 22(2) of Directive 2008/50/EC from the obligation to meet the PM₁₀ limit values in 8 air quality zones as notified by the United Kingdom by letter registered on 5 May 2009.
- (4) By letters registered on 7 May and 26 July 2010 the United Kingdom again notified the Commission of an exemption from the obligation to apply the daily limit value for PM₁₀ in the 2 air quality zones listed in the Annex to this Decision.

¹ OJ L 152, 11.6.2008, p. 1.

² OJ L 163, 29.6.1999, p.41.

³ C(2009)9855 final

- (5) The Commission notes that for reasons of legal certainty, notifications of an exemption from the obligation to apply the PM₁₀ limit values in zones on which the Commission has already adopted a decision will only be assessed if genuinely new information as compared to the previous notification is provided by the notifying Member State. As regards the notification by the United Kingdom of an exemption from the obligation to apply the daily limit value for PM₁₀ in zone 1, as registered on 7 May 2010 and listed in the Annex to this Decision, the Commission notes that new information has been submitted to the Commission as compared to what was provided by the United Kingdom in the previous notification. The Commission notes that the exemption from the obligation to apply the daily limit value for PM₁₀ in the air quality zone 2, as listed in the Annex to this Decision, has been notified for the first time by letter registered on 26 July 2010.
- (6) The Commission identified certain relevant information as missing from the original notifications in relation to both zones, and requested the competent authorities of the United Kingdom by letters respectively dated 28 June and 7 September 2010 to complete the notifications. The United Kingdom submitted the additional essential information by letters dated respectively 8 July and 3 September for zone 1 and 28 September 2010 for zone 2. 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. 4 September 2010 as regards zone 1 and 5 October 2010 as regards zone 2. The Commission notes that further clarifying information was submitted by the United Kingdom by electronic mail dated 19 January 2010 as regards zone 1. This information has been taken into account by the Commission in the assessment of the notification.
- (7) 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 Europe⁴, ("the Communication"). The notification was submitted using the forms set out in the Staff Working Paper⁵ that accompanied the Communication.
- (8) The competent authorities have provided data for the year 2005 as well as for 2007 as specified in the Annex to be used as reference years and as the basis for the assessment. The Commission notes that those years are appropriate for the purpose of assessing whether the conditions are fulfilled in zones 1 and 2.
- (9) The Commission notes that according to the annual air quality report submitted by the United Kingdom in September 2010 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 2000/69/EC and 2002/3/EC of the European Parliament and of the Council⁶, zone 2 complied with the daily PM₁₀ limit value. The Commission furthermore considers that it is likely that the concentration levels in this zone can be maintained below the relevant limit value in accordance with Article 12 of Directive 2008/50/EC.

⁴ COM(2008)403

⁵ SEC(2008)2132

⁶ OJ L 202, 7.6.2004, p. 63.

- (10) In accordance with Article 22(1) of Directive 2008/50/EC, Member States shall 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 shall meet the minimum requirements set out in Section A of Annex XV to Directive 2008/50 and shall in accordance with Article 22(4) be communicated to the Commission together with the notification.
- (11) The Commission notes that the United Kingdom's notification was accompanied by an updated air quality plan for both notified zones. The assessment confirms that the requirements provided for in Section A of Annex XV to Directive 2008/50/EC are fulfilled by the plans provided for zones 1 and 2.
- (12) 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.
- (13) The United Kingdom has conducted and provided a thorough analysis of the contributing sources by sector and origin for both notified zones. Traffic seems to be the main domestic anthropogenic source contributing to the high PM₁₀ concentration levels at the local level in both zones. The United Kingdom has also quantified the contribution from natural sources to observed concentrations in all zones and discounted this contribution for the purposes of compliance with the limit values for PM₁₀. The assessment of the Commission confirms that the identification and quantification of the contributions from the different sources provided by the United Kingdom's authorities give a relevant and reasonable basis for the assessment of whether the conditions for the PM₁₀ exemption are satisfied.
- (14) As regards the assessment whether the PM₁₀ limit values cannot be achieved because of site-specific dispersion characteristics, adverse climatic conditions or trans-boundary contributions, the Commission notes that no new information has been provided by the United Kingdom's authorities regarding zone 1 and that therefore the provisions of Recitals 13 to 16 of Commission Decision C(2009)9855 still apply.
- (15) As regards zone 2, the notification states that trans-boundary air pollution is the chief cause for the high concentration levels. The Commission considers that the United Kingdom's authorities have demonstrated, even though applying a different method from the one recommended in the Communication, that the exceedance situations in zone 2 can be chiefly attributed to trans-boundary and natural contributions.
- (16) The notification indicates that no formal consultations have been held with the countries in which the trans-boundary contributions originate as required by Article 25(1) of Directive 2008/50/EC. The Commission recognises, however, that even though it is claimed that compliance in zone 2 can be achieved through measures targeted at local sources alone, some discussions and cooperation with the Spanish authorities, as one of the countries in which the pollution originates, has already been initiated on the basis of an exchange of data.
- (17) In order to assess whether 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 trans-boundary contributions.

- (18) As regards zone 1, the Commission notes that no new information has been provided by the United Kingdom's authorities and that therefore the provisions of Recital 18 of Commission Decision C(2009)9855 still apply.
- (19) As regards zone 2, taking into account that there were no exceedances of the limit values before 2005, and that no substantial changes regarding polluting sources had occurred since then, the Commission considers that it was reasonable to expect that compliance could be maintained without taking additional measures. The Commission therefore recognises that no additional local abatement measures were taken before 2005.
- (20) In order to assess whether 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 by the Member State at that date, and the estimated impact of the additional measures proposed to ensure compliance in the air quality plans accompanying the notifications.
- (21) In view of the very narrow margin by which compliance in zone 1 is projected, the Commission considers that there may still be a risk that the daily limit value is exceeded after the exemption period. The Commission therefore finds that no objection should be raised to the exemption, provided that the air quality plan is adjusted to include short-term measures effective for controlling or, where necessary, suspending activities which contribute to the risk of the limit values being exceeded. The competent authorities should ensure that those measures or, if appropriate, a short-term action plan within the meaning of Article 24 of Directive 2008/50/EC are in place by 11 June 2011 at the latest. The adjusted air quality plan including the short-term measures, or if appropriate, the short-term action plan shall be communicated to the Commission by 30 November 2011 at the latest.
- (22) As regards zone 2, according to the latest annual report on air quality provided by the United Kingdom, compliance with the daily limit value has already been achieved if the contributions from natural sources are subtracted in line with Article 20 of Directive 2008/50/EC. The Commission therefore considers that in view of the compliance achieved, the daily limit value laid down in Annex XI to Directive 2008/50/EC should continue to apply in zone 2 without a margin of tolerance.
- (23) As regards the status of implementation of the Community legislation listed in Part 2 of Section B in Annex XV to Directive 2008/50/EC, the Commission notes that no new information has been provided by the United Kingdom as regards zone 1 and that therefore the provisions of Recital 24 of Commission Decision C(2009)9855 still apply. As regards zone 2, the Commission notes that the expected exceedances by the United Kingdom in 2010 of 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 pollutants⁷, will only have a very minor impact on the PM₁₀ concentration levels in zone 2.

- (24) As regards measures to be considered in accordance with Part 3 of Section B in Annex XV to Directive 2008/50/EC, the Commission considers that the authorities of the United Kingdom have demonstrated that due account has been taken of these abatement measures in both notified zones.
- (25) Against that background, the Commission considers that no objections should be raised against the application of the exemption from the obligation to apply the daily PM₁₀ limit value in zone 1 provided that the air quality plan is adjusted to include short-term abatement measures, or if appropriate, it is complemented by a short-term action plan by 11 June 2011 at the latest.
- (26) As regards zone 2, objections should be raised against the notification of an exemption from the daily limit value for PM₁₀, on the grounds that compliance with that limit value has already been achieved.
- (27) During the exemption period the daily limit value continues to apply in zone 1 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, the United Kingdom should provide the Commission, on an annual basis, with data confirming that the concentration levels do not exceed the daily limit value plus the maximum margin of tolerance in this zone.
- (28) In order to ensure that the Commission can check the implementation of the air quality plan and the relevant abatement action, the United Kingdom should provide information to the Commission for the zone covered by the exemption 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 following the date of expiry of the exemption period, i.e. in 2012.
- (29) The exemption should apply to the air quality zone 1 as it was defined in the reference year 2005 as indicated in the notification and in the Annex to this Decision. In order to ensure that the exemption applies to the territory as defined in this Decision, any changes to the delimitation of this 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 the United Kingdom of Great Britain and Northern Ireland of an exemption from the obligation to apply the daily limit value for PM₁₀ in zone 1 listed in the Annex to this Decision, provided that the competent authorities adjust by 11 June 2011 at the latest the air quality plan to include short-term measures effective for controlling or, where necessary, suspending activities which contribute to the risk of the limit values being exceeded.

⁷ OJ L 309, 27.11.2001, p. 22.

If appropriate, those measures may be provided in the form of a short-term action plan within the meaning of Article 24 of Directive 2008/50/EC. Provided this condition is satisfied, the exemption shall apply until 11 June 2011. The adjusted air quality plan including the short-term measures, or if appropriate, the short-term action plan shall be communicated to the Commission by 30 November 2011 at the latest.

2. Objections are raised against the notification by the United Kingdom of Great Britain and Northern Ireland 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 zone 2 as listed in the Annex to this Decision.

Article 2

1. The United Kingdom of Great Britain and Northern Ireland 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 levels in the zone referred to in Article 1(1) are below the daily limit value plus the maximum margin of tolerance specified in Annex XI to Directive 2008/50/EC. That data may be provided through the annual submission of the questionnaire referred to in Article 1 of Commission Decision of 29 April 2004 laying down a questionnaire to be used for annual reporting on ambient air quality assessment under Council Directives 96/62/EC and 1999/30/EC and under Directives 2000/69/EC and 2002/3/EC of the European Parliament and of the Council⁸.
2. The United Kingdom of Great Britain and Northern Ireland shall, by 30 September 2012 at the latest, provide the Commission with information confirming that compliance with the daily limit value for PM₁₀ set out in Annex XI to Directive 2008/50/EC has been achieved in zone 1.
3. Changes to the delimitations of the air quality zones as compared to the delimitation that applied in this Decision during the exemption period that may affect the scope of the exemption shall be subject to prior approval of the Commission.

⁸ OJ L 156, 30.4.2004, p. 84.

Article 3

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

Done at Brussels, 11.3.2011

For the Commission
Janez POTOČNIK
Member of the Commission

CERTIFIED COPY
For the Secretary - General

Jordi AYET PUIGARNAU
Director of the Registry

ANNEX

Zones and agglomerations covered by the notifications in accordance with the delimitations applicable in the annual air quality report for the calendar years 2005 and 2007 as specified in the table.

Zone Number	Reference year	Zones and agglomerations	Zone name	Notified PM₁₀ limit value
1.	2005	UK0001	Greater London Urban Area	Daily limit value
2.	2007	UK(GIB)	Gibraltar	Daily limit value