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COMMISSION OPINION 

of 11.3.2016  

addressed to the Government of the Republic of Austria concerning a draft decree introducing a sectoral driving ban on a section of the A12 motorway in the Inn valley
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1. Introduction

In accordance with Article 1 of Decision No 357/2009/EC of the European Parliament and of the Council of 22 April 2009 on a procedure for prior examination and consultation in respect of certain laws, regulations and administrative provisions concerning transport proposed in Member States, the Austrian Government sent the Commission on 22 December 2015 the draft of a decree by the Government of the Federal State of Tyrol introducing a sectoral driving ban on a section of the A12 motorway in the Inn valley. This Opinion has been adopted by the Commission in accordance with Article 2(1) of the Decision.

The declared aim of the planned sectoral driving ban is to contribute to a reduction in air pollution in the Inn valley to protect the environment and human health. It should be noted that the Tyrolean authorities have in the past already twice adopted measures imposing a sectoral driving ban. The first measure to this effect was adopted in 2003, it was however suspended before taking effect, following an order from the European Court of Justice, and later repealed when, in its judgment in case C-320/03 Commission v Austria, the Court declared it incompatible with the free movement of goods (now Articles 34 and 35 TFEU). The second measure imposing a sectoral driving ban has been adopted in 2007. The ban was then in force between 1 January 2008 and 21 December 2011. It was repealed following another judgment of the European Court of Justice, this time in case C-28/09 Commission v Austria, in which the Court again found the measure to be incompatible with the free movement of goods, at least as long as it has not been shown that less restrictive measures are not sufficient to achieve the overriding objective of cleaner air.

The notification of the measure by the Austrian authorities on 22 December 2015 in the context of Decision No 357/2009/EC followed a public consultation launched by the Tyrolean authorities on 27 July 2015 on their website which lasted for a period of eight weeks. The consultation concerned a package of measures to improve the air quality in the Inn valley, which next to the sectoral driving ban also included a driving ban for more polluting categories of heavy goods vehicles and the prolongation of the exemption of EURO VI vehicles from the already existing night driving ban on the A12.

By letter of 28 July 2015, the Austrian authorities informed the Commission of the public consultation and the related documents. Next to the draft decrees related to the three measures and their respective explanatory texts, the consultation documents also included a draft of the

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2 Verordnung des Landeshauptmannes, mit der auf der A12 verkehrsbeschränkende Maßnahmen erlassen werden (sektorales Fahrverbot), BGBl. II 279/2003 vom 27.05.2003.
3 ECLI:EU:C:2005:684.
5 ECLI:EU:C:2011:854.
6 https://www.tirol.gv.at/umwelt/umweltrecht/aktionsprogramm/
2015 revision of the comprehensive strategy of measures to reduce NO₂ emissions in Tyrol by the Austrian Environment Agency (Umweltbundesamt)⁷ and a report with calculations of the impact of various selected measures on NOₓ emissions in the lower Inn valley by the Swiss company Ökoscience⁸.

On 10 December 2015, the Austrian authorities presented the planned sectoral driving ban to the Commission at a meeting in Brussels. The draft presented then was identical to the draft that had been on the consultation website; no changes had been made following the consultation. With the exception of the foreseen starting date of the sectoral driving ban (which is now two months later than originally planned), the notified draft decree introducing a sectoral driving ban is also identical to the one presented in the public consultation.

2. Measures to reduce NO₂ concentrations in the Inn valley

2.1. Background: Environmental situation in the Inn valley

According to information provided by the Austrian authorities, the air quality at two sampling points along the A12 motorway in the lower Inn valley does currently not comply with the provisions of Directive 2008/50/EC on ambient air quality and cleaner air for Europe⁹. In 2014, the annual average concentration of nitrogen dioxide (NO₂) in Kundl and in Vomp was still by 8 and 17 μg/m³ respectively above the limit value of 40 μg/m³ given in Annex XI to the Directive, although this limit value should already have been reached in 2010.¹⁰ In accordance with Article 23(1) of the Directive, wherever limit values are exceeded for which the attainment deadline has already expired, "the air quality plans shall set out appropriate measures, so that the exceedance period can be kept as short as possible".

The report by the Austrian Environment Agency that was attached to the public consultation suggests that road traffic accounts for the majority of NOₓ emissions in the areas where the limit value is exceeded. Around two thirds (60-70%) of overall NOₓ emissions are due to road traffic, and up to 95% at measuring points along important road arteries. It seems hence appropriate to focus on measures to reduce road traffic-related emissions.

Based on real-drive emission factors, the share of individual vehicle categories in total NOₓ emissions from road traffic in the lower Inn valley in Tyrol has been calculated for 2012. The results are as follows: heavy goods vehicles (HGV; >3.5 tonnes maximum mass) and passenger cars each account for close to 40% of the total, light duty vehicles (<3.5 tonnes) for around 20%, buses and coaches for 3% and motorcycles for less than 1%.¹¹ Passenger cars and light duty vehicles together hence account for about 60% of all relevant NOₓ emissions.

2.2. Traffic-related measures already adopted by the Austrian authorities

Over the last years, the Austrian authorities have implemented a number of measures with the aim to reduce traffic-related NO₂ emissions in the Inn valley. The most prominent measures are:

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¹⁰ In accordance with Article 22(1) of Directive 2008/50/EC, the deadline could be postponed by a maximum of five years to 2015 as Austria has established an air quality plan for the affected zone.
¹¹ Ökoscience (2015), op. cit., p. 15.
a) The differentiation of the toll rates on Austrian motorways by EURO emission class in 2010, in accordance with Article 7g of Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures. The difference between the cleanest category (EURO VI) and the dirtiest category (EURO 0 to III) is currently 35.7%.

While no precise figures are available on the impact of this measure on the amount of NOx emissions in the Inn valley, it is safe to assume that the differentiation of the HGV toll by EURO emission class has contributed to a speedier fleet renewal than in a scenario without such a differentiation. As newer vehicles emit far less NOx than older vehicles (EURO VI emit 80% less NOx than ordinary EURO V vehicles and Environmentally Enhanced EURO V Vehicles (EEV), which in turn, according to the test cycles, emit 43% less NOx than EURO IV vehicles and 60% less than EURO III vehicles), any measure that speeds up fleet renewal helps reduce NOx emissions.

b) The gradual tightening of the night time driving ban on the A12 for HGV with a maximum mass of more than 7.5 tonnes: the exemptions for EURO V vehicles expired on 31 October 2012 and those for EEV (i.e. environmentally-enhanced EURO V) vehicles on 31 October 2013. Since then, only EURO VI vehicles are allowed to drive at night on the A12. The exemption for EURO VI vehicles has recently been extended until the end of 2020. Again, no precise figures on the impact of this measure on NOx emissions are available. The amount of night traffic on the A12 was already rather low before EURO V and EEV vehicles were banned from driving there at night, as the double night toll on the A13 Brenner motorway had already pushed most transit traffic away from the night hours. Without the recent prolongation of the exemption of EURO VI vehicles until the end of 2020, there would have been a complete night traffic ban on the A12 motorway. In the scenarios calculated by Ökoscience, the prolongation of the exemption of EURO VI vehicles was already included in the baseline.

c) The introduction of a permanent speed limit of 100 km/h for light vehicles (passenger cars and light duty vehicles) on the A12 and A 13 motorways on 20 November 2014. Before that date, there was a variable speed limit that was only imposed in times of bad air quality.

In the scenarios calculated by Ökoscience, the permanent speed limit of 100 km/h is expected to lower NO2 values in the Inn valley by 2.0 to 2.4 μg/m3 in 2020. The higher figure refers to a scenario where fleet renewal is not as quick as in the scenario to which the lower figure refers. This seems logical as the emission reduction potential of a speed limitation is lower in the case of vehicles more recently put on the market.

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13 This is confirmed in the impact assessment accompanying the Strategy for an internalisation of external costs (SEC(2008)2208 of 8.7.2008). On page 22 of the document, the experience from Germany (which had introduced a differentiation by EURO category in its road charging system in 2005) and Austria (which had not done so yet at the time of writing the report) are compared: "Germany has witnessed adjustments in the fleet composition with a visible trend towards cleaner vehicles and accelerated renewal of the fleet. In contrast, this effect has not been seen in neighbouring Austria where the tolling system on the motorways does not differentiate."
16 The potential emission reductions quoted here refer to scenarios assuming no traffic growth between 2012 and 2020.
d) In addition, also with a view to increase the relative attractiveness of rail transport and hence to incentivise a modal shift towards rail, based on Article 7f of Directive 1999/62/EC, a mark-up on the toll for HGV on the A12 motorway was introduced: the mark-up was gradually increased from 10% in 2012 via 15% in 2013 and 2014 and 20% in 2015 to (the maximum allowed according to Directive 1999/62/EC of) 25% in 2016. The revenues of the mark-up are to be used to co-finance the construction of the Brenner base tunnel, a priority project on the core TEN-T network. Moreover, the rail network in the lower Inn valley and on the Brenner route has been renovated and modernised, including the deployment of the European Train Control System ETCS.

No impact of these measures on the modal split in the Inn valley and hence on the reduction of air pollution can at this stage be given.

e) Finally, reference should be made to a less recent measure generally prohibiting the circulation of HGV that do not meet certain environmental standards on the A12 motorway in the lower Inn valley. Based on a decree from 2006, EURO 0 and EURO I vehicles have been banned since January 2007, if accompanied by a trailer or semi-trailer, and since November 2009, also if unaccompanied. EURO II vehicles with trailer or semi-trailer have been banned since November 2008. As the measure has already been in place for some time, its impact on NOx emission is included in the baseline.

2.3. Traffic-related measures that are planned by the Austrian authorities

(a) Ban on the most polluting vehicle categories

Along with the sectoral driving ban [point b) below], the Austrian authorities plan to adopt an expansion of the above mentioned driving ban for old heavy goods vehicles with a maximum mass of more than 7.5 tonnes and not complying with certain environmental standards. The plan is to ban

- EURO II vehicles also without trailer or semi-trailer from July 2016 onwards,
- EURO III vehicles with trailer or semi-trailer from January 2018 onwards,
- EURO III vehicles also without trailer or semi-trailer from January 2020 onwards and
- EURO IV vehicles with or without trailer or semi-trailer from January 2023 onwards.

This means that, from 2023, only EURO V, EEV and EURO VI vehicles would be allowed to drive on the A12 motorway.

The timetable envisaged by the Tyrolean authorities is expected to result in a reduction of NO2 values in the Inn valley by 0.1 to 0.7 μg/m3 in 2020. As above, the lower figure assumes a quicker fleet renewal. Both figures cover only the ban on EURO II and EURO III vehicles as EURO IV vehicles would still be allowed to drive on the A12 in 2020.

(b) Sectoral driving ban

With the notified draft decree, the Tyrolean authorities want to ban heavy goods vehicles (HGV) with a total mass above 7.5 tonnes which carry certain goods from using the A12 motorway between Langkampfen (southwest of Kufstein) and Ampass (just east of Innsbruck). The ban is to be introduced in two phases: Phase 1 is to start on 1 September 2016. From then on, HGV carrying all kinds of waste, stones, earth, excavated material, logs and cork as well as motor vehicles and trailers are to be banned. In Phase 2, starting on 1

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December 2016, HGV carrying non-ferrous and ferrous ores, steel (except for reinforcing and construction steel for delivery to building sites), marble and travertine as well as (ceramic) tiles are also to be banned. The goods have been chosen on the basis that they are deemed to be most suitable for the carriage by rail.

Exempted from the ban will be the carriage of the goods listed above if the place of loading or unloading is in a core zone or if the place of loading and unloading is in an extended zone. The core zone comprises the political districts of Imst, Innsbruck-Land, Innsbruck-Stadt, Kufstein and Schwaz. The extended zone comprises the political districts of Kitzbühel, Landeck, Lienz, Reutte and Zell am See in Austria, the districts of Bad Tölz-Wolfratshausen, Garmisch-Partenkirchen, Miesbach, Rosenheim (incl. the town of Rosenheim) and Traunstein in Germany and the district communities of Valle Isarco/Eisacktal, Val Pusteria/Pustertal and Alta Valle Isarco/Wipptal in Italy.

Should the goods be carried from or to the combined transport terminals in Hall (to/from direction west) or in Wörgl (to/from direction east), then the HGV carrying them may also use the A12.

According to information provided by the Austrian authorities, the sectoral driving ban is expected to reduce the number of HGV on the A12 motorway by some 170,000 per year (6.6% of the current total). It is expected to lower NO2 values in the Inn valley by 0.2 to 0.4 µg/m3 in 2020. Again, the lower end of the expected reduction in NO2 values refers to a scenario where the fleet has been quickly renewed and fewer vehicles with high NO2 emissions are around.

2.4. Traffic-related measures which the Austrian authorities have discarded

- **Reduction of speed limit for heavy goods vehicles:** A reduction of the speed limit for HGV from 80 km/h to 60 km/h was considered to be counterproductive as it would actually increase the amount of NO2 emissions.

- **(Further) reduction of speed limit for cars:** A further reduction of the speed limit for passenger cars and light duty vehicles from 100 km/h to 80 km/h was discarded as a significant amount of traffic was then expected to use - and congest - the lower-ranking roads.

- **Variable traffic ban on HGV whenever the air quality is bad:** A limitation of HGV traffic whenever the concentration of pollutants in the air is above the legal threshold was discarded as it would lack in predictability. The Austrian authorities argued that it would be difficult to plan logistical processes without a clear and predictable framework. In contrast to such a measure, the sectoral driving ban would be a predictable measure that would not impede the planning of logistical processes.

- **Introduction of an environmental zone (banning the most polluting light vehicles):** Finally, banning the most polluting light vehicles was deemed impossible to implement given the high share of foreign vehicles on the A12. This measure was hence discarded.

3. Assessment of the measures

3.1. Introduction

The draft decree introducing a sectoral driving ban that was notified to the Commission on 22 December 2015 is an almost identical copy of the decrees of 2003 and 2007 that were subject
to the Court cases C-320/03 and C-28/09 respectively. In line with the judgments in these two cases, this assessment focuses on the compatibility of the measure with the free movement of goods. The same reasoning would also apply to the assessment of the compatibility of the measure with the freedom to provide services.

It is settled case law that the envisaged sectoral driving ban on the A12 motorway in the Inn valley, which is a principal land transport route between Southern Germany and Northern Italy, must be regarded as a measure having equivalent effect to quantitative restrictions to intra-EU trade flows, which are prohibited under Articles 34 and 35 TFEU.\(^\text{18}\)

Measures which restrict the free movement of goods may be taken only for overriding reasons of public interest such as the protection of the environment and of human health. In such a case, however, the measures must be suitable to achieve the objective sought and they must not go beyond what is needed to achieve the objective.

By their nature, traffic bans reduce the amount of traffic and hence the amount of local pollutant emissions and can thus be considered to be suitable measures to improve the air quality in areas affected by traffic-based air pollution.\(^\text{19}\) This does not mean, however, that there are no other, at least equally suitable measures, but which are less restrictive of the free movement of goods.

In both judgments related to the earlier attempts to introduce a sectoral driving ban, the European Court of Justice stressed that:

"before adopting a measure so radical as a total traffic ban on a section of motorway constituting a vital route of communication between certain Member States, the Austrian authorities were under a duty to examine carefully the possibility of using measures less restrictive of the freedom of movement and discount them only if their inappropriateness to the objective pursued was clearly established."\(^\text{20}\)

It is therefore important for Austria to look at all appropriate measures available - whether presented above or not - and their expected impact on air quality and compare them with the impact which the sectoral driving ban would have to be able to assess whether the notified measure is a proportionate measure or not.

3.2. Measures already taken

The Commission commends the Austrian authorities for the measures they have already taken to improve the air quality in the Inn valley. The differentiation of toll rates by EURO category of the vehicle, the tightening of the night driving ban to all vehicles but EURO VI vehicles and the introduction of the permanent speed limit of 100 km/h for light vehicles have contributed to a reduction in the NO2 concentration in the air along the A12 motorway in recent years. The trend in emissions is clearly going in the right direction.

Figures contained in the Ökoscience study provided by the Austrian authorities suggest that in a scenario assuming fast fleet renewal and no traffic growth, NO2 concentrations in 2020 would be as low as 35.8 μg/m³, while in 2018 the limit value of 40 μg/m³ would still be exceeded by 1.6 μg/m³, if no additional measures were taken by the Austrian authorities to reduce NO2 emissions.\(^\text{21, 22}\) In a scenario assuming a less speedy fleet renewal, the NO2

\(^{18}\) Cf. C-28/09, paragraph 116 and C-320/03, paragraph 67.
\(^{19}\) Cf. C-28/09, paragraph 138.
\(^{20}\) C-28/09, paragraph 140 and C-320/03, paragraph 87.
\(^{21}\) The expected impact of the speed limit of 100 km/h for light vehicles implemented in November 2014 is already included in these figures.
concentration in the lower Inn valley is assumed to go down to $49.1 \mu g/m^3$ by 2018 and to $46.2 \mu g/m^3$ by 2020 in the absence of additional policy measures.

To respect the limit value of $40 \mu g/m^3$ as soon as possible, and hence to comply with Directive 2008/50/EC, the Austrian authorities thus have to take additional measures. Preference should be given to the most effective measures and to the least restrictive ones in terms of the free movement of goods.

3.3. Measures currently not foreseen with a likely positive environmental impact

3.3.1. Further reduction of speed limit for light vehicles

The introduction of the permanent speed limit of 100 km/h for light vehicles in November 2014 has proven to be a success in terms of reducing air pollution in the Inn valley\textsuperscript{23}. According to the calculations of Ökoscience, its impact on the reduction of NO2 values is expected to be much greater than that of the sectoral driving ban. In 2020, NO2 values are expected to be lower by 2.0 to 2.4 μg/m^3 than they would be without the permanent speed limit. By comparison, the sectoral driving ban is expected to lower NO2 values in the Inn valley by 0.2 to 0.4 μg/m^3 in 2020, i.e. 1/10th to 1/6th of the permanent speed limit.

As fuel consumption does not increase in a linear way with increasing speed but exponentially, a further reduction of the speed limit for light vehicles to 90 km/h or 80 km/h may not bring the same reduction in pollutant emissions as the reduction from 130 km/h to 100 km/h is expected to bring. The reduction would however likely still be significantly above any reduction which the sectoral driving ban would bring. Speed limits of 80 km/h have been introduced in similarly sensitive areas in other countries of the EU with a positive impact on air quality.\textsuperscript{24}

The argument by the Austrian authorities that a further reduction of the speed limit would lead to more traffic using lower-ranking roads which would not be able to cope with the amount of traffic is not supported by evidence. The motorway would likely still be the preferred route as it provides for much smoother traffic than lower-ranking roads.

In addition to a further reduction of the speed limit for light vehicles, which would immediately lower NO2 levels, additional measures to clean up the vehicle fleet on the A12 may be taken and produce benefits, in the sense of consolidating the containment of pollution in the longer run. These measures may usefully target both light vehicles (passenger cars and light duty vehicles) and heavy goods vehicles.

3.3.2. Differentiation of the price of the Austrian motorway vignette by EURO class / fuel type of the vehicle

A differentiation of the price of the Austrian motorway vignette for light vehicles by EURO emission category and by fuel type could incentivize the purchase of newer and cleaner vehicles and reduce the pollution from old vehicles. 60% of all NO2 emissions from road traffic on the A12 are from light vehicles, most of which coming from diesel cars and light duty vehicles. The share of diesel cars in Austria has risen steadily over the last years from 49% in 2005 to 57% in 2015. Austria has thus one of the highest shares in diesel cars in the

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\textsuperscript{22} In case of traffic growth, the exceedance of the limit value in 2018 would be somewhat higher.

\textsuperscript{23} \url{https://www.tirol.gv.at/regierung/pressemeldungen/meldung/artikel/bilanz-des-luft-100ers-zeigt-erfolg-auf-ellen-ebenen/}

\textsuperscript{24} e.g. Rotterdam, Neckar valley around Stuttgart.
EU. Within Austria, Tyrol is the federal state with the highest share of diesel cars (almost 60% in 2015). A differentiation of the price of the vignette by fuel type and by EURO class of the vehicle could incentivize the purchase of less polluting vehicles and hence contribute to a reduction in the NO2 concentration in the air in the Inn valley. Other measures such as higher excise duties for diesel fuel and higher vehicle taxes for diesel vehicles could lead to similar results. According to the calculations of Ökoscience, a reduction of the share of diesel vehicles in all light vehicles travelling on the A12 motorway to one third would reduce NO2 values by 7.6-8.3 μg/m3 in 2018 and by 6.6-7.9 μg/m3 in 2020.

3.3.3. Further differentiation of the HGV toll by emission category

The differentiation of the toll rates for HGV by EURO emission category introduced in 2010 (as foreseen in Directive 2006/38/EC amending Directive 1999/62/EC) has provided incentives for road transport operators to invest in newer and cleaner vehicles which are then less expensive to operate. It has undoubtedly contributed to an accelerated fleet renewal and hence to a reduction in NO2 emissions in the Inn valley. The current spread of 35.7% between the toll for the most polluting and the least polluting category of vehicles is still quite far away from the maximum of 100% allowed under Directive 1999/62/EC. Increasing the spread would provide further incentives for fleet renewal as the use of old vehicles would become relatively more expensive. It would hence contribute to a reduction in air pollution. While the share of the most polluting category of vehicles (EURO 0 to EURO III vehicles) in total traffic on the A12 is likely not very high, its share in total air pollution is potentially important given that a EURO III truck emits 12.5 times more NO2 than a EURO VI truck.

3.3.4. Other measures discarded by the Austrian authorities

The other measures discarded by the Austrian authorities (reduction of the speed limit for HGV from 80 to 60 km/h, variable traffic bans on HGV whenever the air quality is bad and the creation of environmental zones in the Inn valley) are not further discussed as they are not considered to be effective or practical.

3.4. Planned measure which could be strengthened: Banning the most polluting vehicle categories

Banning the most polluting vehicle categories is an efficient measure to reduce air pollution as achieving a given objective is possible without affecting more vehicles than necessary. The impact of banning the most polluting vehicles from using the A12 motorway on the amount of NO2 emissions depends on the speed by which the fleet is renewed. In a scenario in which the fleet is renewed quickly, fewer HGV will fall into the banned vehicle categories and the impact on NO2 emissions will hence not be as high as in a scenario that assumes a less speedy fleet renewal.

Given that the effectiveness of a total ban on the most polluting vehicles diminishes the later such a ban is introduced (due to "natural" fleet renewal), the measure envisaged by the Austrian authorities and described in section 2.3 a) above could be strengthened by bringing forward the dates when certain EURO categories would be banned: Banning EURO III vehicles (which are more than 10 years old in 2016) with or without trailer or semi-trailer already from mid-2016 onwards, together with the envisaged ban on EURO II vehicles.

25 On the neighbouring A13 Brenner motorway, they accounted for 10% of all HGV traffic in 2014, with a rapidly declining trend.
without trailer or semi-trailer, could reduce NO2 concentrations immediately by an estimated 0.5-1.0 μg/m³ on an annualised basis.\textsuperscript{26} This measure alone would be almost twice as effective as the envisaged sectoral driving ban.

In addition, were the ban on EURO IV vehicles already in place in 2018 instead of 2023, it could lower NO2 emission levels by 0.3-1.0 μg/m³ in 2018 and by 0.1-0.9 μg/m³ in 2020.\textsuperscript{27}

The Austrian authorities argue that an earlier ban would encroach on the protected interests of the concerned undertakings as they should be allowed to use their vehicles for an appropriate amount of time. The undertakings concerned could however sell their vehicles to some undertaking in an environmentally less sensitive area and would then not suffer the total loss of their assets. In this context, it should be noted that the sectoral driving ban would generate extra costs even for undertakings who have invested in vehicles with the latest and cleanest technology available on the market although they would pollute the air significantly less than anyone using older vehicles.

3.5. Planned measure which should be discarded: Sectoral driving ban

The envisaged sectoral driving ban only allows reducing NO2 values by an estimated 0.4-0.5 μg/m³ in 2017, by 0.3-0.5 μg/m³ in 2018 and by 0.2-0.4 μg/m³ in 2020. It is hence one of the least effective measures which at the same time restricts the free movement of goods the most. As a number of measures are still available which promise to be at least as effective as the sectoral driving ban, but which at the same time restrict the free movement of goods to a lesser extent, these measures should be adopted first. In terms of improving air quality, the sectoral driving ban in its notified form is not a proportionate measure.

4. Conclusion

It is certainly true that Austria is obliged to take measures to improve air quality in areas where the limit values of Directive 2008/50/EC are exceeded. However, a number of measures other than the intended sectoral driving ban are available which appear to be at least as effective as such a ban while at the same time do not have a similarly restrictive impact on the free movement of goods. Hence, like its predecessors of 2003 and 2007, the notified version of the sectoral driving ban fails to comply with the principle of proportionality.

\textsuperscript{26} According to the calculations by Ökoscience, banning EURO III vehicles with or without trailer or semi-trailer would have reduced NO\textsubscript{2} emissions by 0.6-1.1 μg/m³ in 2015 and by 0.2-0.8 μg/m³ in 2018. The estimate for 2016 is likely closer to the calculated impact in 2015 than to the one in 2018.

\textsuperscript{27} The estimate for 2016 is likely closer to the calculated impact in 2015 than to the one in 2018.

\textsuperscript{28} According to the calculations by Ökoscience, the sectoral driving ban would have lowered NO\textsubscript{2} values in 2015 by 0.6 μg/m³. The estimated value for 2017 is likely slightly lower and closer to the calculated values for 2018. As the introduction of the ban is foreseen to take effect in September and December 2016, the reduction of average annual NO\textsubscript{2} values for 2016 will likely be insignificant.
Done at Brussels, 11.3.2016

For the Commission
Violeta Bulc
Member of the Commission

CERTIFIED COPY
For the Secretary-General,

Jordi AYET PUIGARNAU
Director of the Registry
EUROPEAN COMMISSION