COMMISSION DECISION

of XXX

on the notification by the Kingdom of Belgium of a postponement of the deadline for attaining the limit values for NO₂ in three air quality zones

(Only the French and Dutch texts are authentic)
COMMISSION DECISION

of 6.7.2012

on the notification by the Kingdom of Belgium of a postponement of the deadline for attaining the limit values for NO\textsubscript{2} in three air quality zones

(Only the French and Dutch texts are authentic)

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 Europe\textsuperscript{1}, and in particular Article 22(4) thereof,

Whereas:

(1) The air quality limit values for NO\textsubscript{2} have been legally binding since 1 January 2010 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 air\textsuperscript{2}.

(2) In accordance with Article 22(1) of Directive 2008/50/EC, a Member State may postpone the deadline until 2015 at the latest, by which conformity with the limit values for NO\textsubscript{2} shall be achieved, if the Member State demonstrates that conformity with the limit values cannot be achieved by 1 January 2010 and that an air quality plan demonstrating that such compliance will be achieved before the expiry of the new deadline is established.

(3) Belgium submitted to the Commission by letter registered on 5 October 2011 a notification of a postponement under Article 22(1) of Directive 2008/50/EC of the deadline for attaining the annual limit value for NO\textsubscript{2} in three air quality zones (Brussels, the Port of Antwerp and the Agglomeration of Antwerp), as specified in the Annex to this Decision.

(4) 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 Europe\textsuperscript{3}, ("the Communication") and with the Commission Staff Working Paper concerning guidance on preparing a notification of a postponement of the deadline for attaining

\textsuperscript{2} OJ L 163, 29.6.1999, p.41.
\textsuperscript{3} COM(2008)403
the limit values for NO\textsubscript{2} under Directive 2008/50/EC\textsuperscript{4}. The notification was submitted using the forms set out in the Staff Working Paper\textsuperscript{5} that accompanied the Communication.

(5) The Commission identified certain relevant information as missing from the original notification and requested the Belgian authorities by letter dated 1 December 2011 to complete the notification. Since the Belgian authorities submitted essential additional information by letter dated 22 December 2011 the period for the Commission's assessment of the notification starts from the day following the date of official receipt of that information, i.e. 6 January 2012.

(6) In the notification the Belgian authorities have provided data for the year 2010 to be used as reference year and as basis for the assessment of the postponement of the attainment deadline for the NO\textsubscript{2} annual limit value in the three zones. The Commission finds that since the notification was submitted after the initial deadline for attainment the year 2010 is an appropriate basis for the assessment.

(7) The Belgian notification was accompanied by air quality plans for all notified zones. As regards zone 1, the air quality plan was adopted in 2002 and does not include all the information on the measures, the timetable of their implementation and their projected effect on the concentration levels by the extended deadline. According to the additional information submitted by the Belgian authorities a new plan is under preparation, however, no information on its adoption or implementation date or a timeline was provided. It should be noted that a plan is considered as an air quality plan for the purposes of a notification pursuant to Article 22, if it has been formally endorsed by the competent authorities so that it constitutes a formal commitment to take the necessary abatement action with the view of ensuring compliance with the NO\textsubscript{2} limit values before the new deadline. The Commission further notes that some information on the measures addressing the main sources of NO\textsubscript{2} emissions after the year 2002 was provided by the Belgian authorities in a reply to the request for additional information. As a consequence the Commission has decided to use that information for its assessment of the notification. The air quality plans for zones 2 and 3 fulfill most of the requirements provided for in Section A of Annex XV to Directive 2008/50/EC. The assessment shows however that no information has been provided for these zones on the observed effect of measures and climatic and topographic data. The Commission notes however that total estimated effects of the measures are provided for these zones.

(8) In order to assess whether the conditions for the NO\textsubscript{2} postponement 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.

(9) The Commission finds that the source apportionment provided by the Belgian authorities for the three notified zones is complete for all scales. The Belgian authorities have identified traffic as the main source contributing to the high NO\textsubscript{2}

\textsuperscript{4} SEC(2011)300
\textsuperscript{5} SEC(2008)2132
concentration levels at the local level in all zones. At the urban level other sources, including industry, agriculture, commercial and residential sources were identified as significant contributors in addition to traffic. The assessment of the Commission confirms that the identification and quantification of the contributions from the different sources provided by the Belgian authorities gives a relevant and reasonable basis for the assessment.

(10) Belgium has notified a postponement of the deadline for attaining the annual limit value for NO$_2$ until 1 January 2015 for all the zones.

(11) In order to assess if conformity with the limit values for NO$_2$ could not have been achieved by 1 January 2010, it is necessary to consider when an exceedance triggering abatement action pursuant to Directive 1999/30/EC first occurred in each of the zones and whether relevant measures have been taken in relation to the identified sources.

(12) The Commission notes that the relevant sources have been addressed in all the zones. According to the information submitted by the Belgian authorities, exceedances triggering an obligation to take abatement action with regard to NO$_2$ concentrations were recorded for the first time in 2005 for the zone 1 and in 2008 for the zones 2 and 3. The Belgian authorities presented in their notification an extensive list of measures that addressed traffic and industry sources of pollution in the three zones. The Belgian authorities have indicated that although measures were taken against pollution from traffic, the impact of those measures was overestimated. The difficulties of effectively addressing traffic sources within the given time scope and lower than expected impact of Community measures addressing traffic have been given as justification of why compliance could not be achieved in the three zones by the initial deadline. The Commission notes that the action was taken by the Belgian authorities to address the relevant sectors contributing to the high NO$_2$ concentrations prior to 2010. Based on the explanation provided by the Belgian authorities the Commission considers that it was likely that despite the abatement actions taken by the Belgian authorities, conformity with the annual limit value for NO$_2$ could not be achieved by 1 January 2010 in the three zones.

(13) In order to assess if compliance with the annual limit value for NO$_2$ can be achieved by the new deadline, it is necessary to consider the concentration levels estimated at that date by the Member State, and the estimated impact of additional measures proposed to ensure compliance in the air quality plan accompanying the notification.

(14) The Commission notes that the Belgian authorities have requested the maximum permitted postponement for compliance with the annual limit value for NO$_2$ in all the zones. Given the impacts on public health, the duration of any postponement must be restricted to what is absolutely necessary. An assessment should therefore be made of whether compliance can be achieved earlier than the deadline proposed in the notification.

(15) In order to assess whether the projected compliance by the new deadline is realistic, the Commission requires precise and detailed evidence on the scale and impact of the abatement action planned including a clear implementation timetable for that action.

(16) As regards zone 1, the information provided by Belgium projects compliance with the NO$_2$ annual limit value only in 2018. The Commission finds that in view of the large
compliance gap in zone 1, the projections provided and the measures taken or planned
Belgium has not demonstrated that compliance with the NO₂ annual limit value can be
achieved by 2015.

(17) As regards zones 2 and 3, the Belgian authorities have provided data on projected NO₂
concentration levels in 2015 that seem reasonable and realistic. All relevant sources
have been addressed by on-going measures, including specific measures addressing
traffic. Although the compliance gap in 2010 was small, most of the measures will
only take full effect between 2014 and 2015 or later. Therefore, the Commission
finds that it is reasonable to assume the compliance cannot be achieved before 2015
and that with the measures already in place and with the strict and effective
implementation of the additional measures addressing traffic, Belgium has
demonstrated that compliance with the NO₂ annual limit value can be achieved by
2015 in zones 2 and 3.

(18) As regards the implementation by the Belgian authorities of the legislation listed in
Part 2 of Section B in Annex XV to Directive 2008/50/EC, the Commission notes that
the expected exceedance by Belgium in 2010 of the national emission ceiling set for
nitrogen oxides pursuant to Directive 2001/81/EC of the European Parliament and the
Council of 23 October 2001 on national emission ceilings for certain atmospheric
pollutants⁶, is likely to have an impact on the NO₂ concentration levels. Therefore, the
Commission expects that the necessary action is taken by the Belgian authorities to
ensure that compliance with the requirements of Directive 2001/81/EC is ensured.

(19) The Commission is satisfied that the Belgian authorities have taken into consideration
all measures listed in Part 3 of Section B in Annex XV to Directive 2008/50/EC.

(20) Against that background, the Commission finds that objections should be raised
against the postponement of the deadline for attaining the annual limit value for NO₂
in zone 1, on the grounds that Belgium has not demonstrated that compliance with that
limit value can be achieved by 1 January 2015 at the latest.

(21) As regards zones 2 and 3, the Commission finds that no objection should be raised
against the postponement of the deadline for attaining the annual limit value for NO₂
in those zones.

(22) During the postponement period the annual limit value for NO₂ continues to apply
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, Belgium should provide the Commission, on
an annual basis, with data confirming that the concentration levels do not exceed the
annual NO₂ limit value plus the maximum margin of tolerance in zones 2 and 3.

(23) In order to ensure that the Commission can check the implementation of the air quality
plan and the relevant abatement action, Belgium should provide information to the
Commission for zones 2 and 3 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 postponement period.

The postponement should apply to the air quality zones 2 and 3 as they were defined in the reference year 2010. In order to ensure that the postponement applies to the territory as defined in this Decision, any changes to the delimitation of those zones during the postponement period should be subject to prior approval by the Commission.

HAS ADOPTED THIS DECISION:

Article 1

1. Objections are raised against the notification by the Kingdom of Belgium of a postponement of the deadline for attaining the annual limit value for NO\textsubscript{2} set out in Annex XI to Directive 2008/50/EC in zone 1 as specified in the Annex to this Decision.

2. No objections are raised to the postponement of the deadline for attaining the annual limit value for NO\textsubscript{2} set out in Annex XI to Directive 2008/50/EC in zones 2 and 3 as specified in the Annex to this Decision. The postponement shall apply until 1 January 2015.

Article 2

1. The Kingdom of Belgium shall, for the calendar years 2010 to 2014 inclusive, provide the Commission with data indicating that the concentration levels in zones 2 and 3 are below the annual limit value for NO\textsubscript{2} plus the maximum margin of tolerance specified in Annex XI to Directive 2008/50/EC. That data shall 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 Council.\textsuperscript{7}

2. The Kingdom of Belgium shall, by 30 September 2016 at the latest, provide the Commission with information confirming that compliance with the annual limit value for NO\textsubscript{2} set out in Annex XI to Directive 2008/50/EC has been achieved in zones 2 and 3.

3. Changes to the delimitation of the air quality zones 2 and 3 as compared to the delimitation that applied in the reference year 2010 during the postponement period that may affect the scope of the postponement shall be subject to prior approval of the Commission.

Article 3

This Decision is addressed to the Kingdom of Belgium.

\textsuperscript{7} OJ L 156, 30.4.2004, p.84.
Done at Brussels,

*For the Commission*
Janez Potočnik
*Member of the Commission*
ANNEX

Zones and agglomerations covered by the notification in accordance with the delimitations applicable in the annual air quality report for the reference year 2010.

<table>
<thead>
<tr>
<th>Zone number</th>
<th>Zone code</th>
<th>Zone name</th>
<th>Hourly (h) and/or annual (a) limit value</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>BEB10A</td>
<td>Brussels</td>
<td>a</td>
</tr>
<tr>
<td>2</td>
<td>BEF01S</td>
<td>Port of Antwerp</td>
<td>a</td>
</tr>
<tr>
<td>3</td>
<td>BEF02A</td>
<td>Agglomeration Antwerp</td>
<td>a</td>
</tr>
</tbody>
</table>