COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels,
C(2009) XXX final

Draft

COMMISSION DECISION

of [...] on the notification by Latvia of an exemption from the obligation to apply the limit values for PM10

(Only the Latvian text is authentic)
Commission decision

of [...] on the notification by Latvia of an exemption from the obligation to apply the limit values for PM_{10}

(Only the Latvian 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 Europe\(^1\), and in particular Article 22(4) thereof,

Whereas:

1. Latvia notified the Commission by letter registered on 7 January 2009 of an exemption under Article 22(2) of Directive 2008/50/EC from the obligation to apply the daily and annual limit values for PM_{10} in the air quality zone LV0001 (Riga). The air quality limit values for PM_{10} 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 air\(^2\).

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 PM_{10} 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 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 Europe

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("the Communication")\(^3\). The notification was submitted using the forms set out in the Staff Working Paper\(^4\) that accompanied the Communication.

(4) The Commission identified certain relevant information as missing from the original notification, and requested the Latvian authorities by letter dated 16 March 2009 to complete the notification. The Latvian authorities submitted the additional information by letter dated 20 April 2009.

(5) The Latvian authorities have provided data for the year 2007 to be used as reference year and basis for the assessment. The Commission notes that 2007 is appropriate for the purpose of assessing whether the conditions are fulfilled.

(6) The Latvian notification was accompanied by an air quality plan which was adopted in July 2004. The plan which covers the period 2004 to 2009 sets out measures addressing several sources of pollution such as traffic, domestic heating and power plants. In order to be appropriate for the purpose of the notification, the plan should however be up-dated so as to demonstrate how compliance with the PM\(_{10}\) limit values can be achieved by the expiry of the exemption period in 2011. In the absence of an up-dated air quality plan meeting the requirements set out in Part A of Annex XV to Directive 2008/50/EC, the Commission finds that the Latvian authorities have not submitted all essential information needed to demonstrate that the conditions for an exemption are satisfied.

(7) In order to assess whether the conditions for the PM\(_{10}\) 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 Latvian authorities have provided a detailed analysis of the contributing sources by sector and origin. Traffic is the dominating domestic anthropogenic source contributing to the high concentration levels in the urban background and at the local level. However, natural and industrial sources also account for substantial contributions to the urban background. The Commission notes that data on the contribution from domestic heating is missing from the notification, while reference is made to such data in the 2004 air quality plan.

(9) References are also made in the notification to contributions from winter sanding and sea salt spray. Contributions from natural sources such as sea salt spray, or from winter sanding may be taken into account pursuant to Article 20 and 21 of Directive 2008/50/EC, provided that evidence is submitted demonstrating that the exceedances are attributable to such sources. As such information is not available, the Commission is not in a position to assess the importance of these contributions or take them into account for the assessment of the notification.

(10) A comparison with the 2005 data collected under the cooperative programme for monitoring and evaluation of the long-range transmission of air pollutants in Europe

\(^3\) COM(2008)403
\(^4\) SEC(2008)2132
The notification identifies site-specific dispersion characteristics, adverse climatic conditions and transboundary pollution as the principal reasons for why conformity with the limit values could not be achieved by the 2005 attainment date.

The Commission finds that although some uncertainty remains as to the sources causing the exceedances, in particular as regards natural sources and winter sanding, the identification and quantification of the contributions from the different sources provided by the Latvian authorities nevertheless provides a sufficient basis for the assessment.

The notification indicates that high concentrations levels are also due to adverse climatic conditions. However, the assessment shows that the average wind speed on days showing exceedances was above the 1.5 m/s indicator given in the Communication. As the additional information regarding wind speed and thermal inversion provided by the Latvian authorities did not sufficiently explain why a higher average wind speed is relevant for demonstrating the presence of adverse climatic conditions, the Commission finds that it cannot fully assess if adverse climatic conditions are the principal cause of the exceedance.

The Latvian authorities have also identified transboundary contributions as a relevant cause for the exceedances. The notification indicates that for seventeen days, the exceedance of the daily limit value was due to transboundary pollution. However, as the daily limit value continued to be exceeded also after subtracting the days that can be attributed to transboundary contributions, the Commission finds that the Latvian authorities have not demonstrated that transboundary pollution is the chief cause of exceedance.

Accordingly, the Commission finds that on the basis of the information provided, it cannot fully assess if the exceedance can be attributed to site-specific dispersion characteristics, adverse climatic conditions or transboundary contributions, or to a combination of these factors.

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 site-specific dispersion characteristics or transboundary contributions.

(18) According to the information provided by the Latvian authorities, the first exceedances were recorded in 2003. The notification indicates that certain abatement action was implemented prior to the 2005 attainment date and an air quality plan addressing the main sources of pollution was adopted in 2004. Considering that the exceedances were recorded relatively close to the 2005 attainment date and that this limited the possibilities of the competent authorities to take abatement action that could deliver compliance within the short time period remaining until the entry into force of the limit values, the Commission considers that on balance the abatement action taken prior to the 2005 deadline was appropriate.

(19) In order to assess if compliance with the limit values for PM$_{10}$ 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.

(20) The annual air quality report submitted by the Latvian authorities indicates that both the daily and the annual limit values were exceeded in 2007. The daily limit value of 50 $\mu g/m^3$ was exceeded during as much as 147 days as compared to the permitted 35 days. Although it is not excluded that the number of days in exceedance could be considerably lower, if the Commission could take into account and deduct contributions from natural sources and winter sanding, it is however clear that the number of days in exceedance would still substantially exceed the permitted 35 days and the annual limit value would probably also be exceeded. Some estimates have been provided by the Latvian authorities as to the expected impact of abatement measures as well as expected reductions of emissions in 2011. In the absence of explanations as to the basis for calculating these estimates, the resulting reductions are not sufficiently justified.

(21) Taking into account the absence of an up-dated air quality plan formally endorsing the abatement action due to be taken and of explanations as to the basis for calculating the estimates of the expected impact of abatement measures and the expected reductions of emissions in 2011, the Commission finds that it cannot on the basis of the information provided fully assess if compliance with the limit values can be achieved by the expiry of the exemption period.

(22) The Commission is satisfied that the implementation by Latvia 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.

(23) As regards measures to be considered in accordance with Part 3 of Section B in Annex XV to Directive 2008/50/EC, the Latvian authorities have demonstrated that due account has been taken of those measures.

(24) Against that background, the Commission finds that objections should be raised against the notification by Latvia on the grounds that it has not been demonstrated that conformity with the limit values cannot be achieved because of site-specific dispersion
characteristics, adverse climatic conditions or transboundary contributions and that it
has not been demonstrated that compliance with the annual and daily limit values can
be achieved at the expiry of the exemption period on 10 June 2011,

HAS ADOPTED THIS DECISION:

Article 1

Objections are raised against the notification by Latvia of an exemption from the obligation to
apply the annual and daily limit values for PM$_{10}$ set out in Annex XI to Directive 2008/50/EC
in the air quality zone LV0001 (Riga).

Article 2

This Decision is addressed to the Republic of Latvia.

Done at Brussels, […]

For the Commission
[…]
Member of the Commission