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Subject:	Proposal for a Directive of the European Parliament and of the Council on the reduction of national emissions of certain atmospheric pollutants and amending Directive 2003/35/EC - State of play

I. INTRODUCTION

1. The Commission submitted the proposal on the reduction of national emissions of certain atmospheric pollutants (NEC) to the Council and the European Parliament on 20 December 2013, as part of the "Clean Air Programme for Europe" Strategy. It is based on Article 192(1) TFEU.

The proposal sets requirements for the emissions responsible for particulate matter and ozone concentrations, acidification and eutrophication so as to move towards the air quality related objectives stated in the 7th Environment Action Programme (EAP) ¹ "to ensure that by 2020 outdoor air quality in the Union has significantly improved, moving closer to WHO recommended levels".

2. On 28 October 2015 the European Parliament voted in Plenary 118 Amendments to the proposal ². The vote on the legislative resolution was postponed, so that the proposal could be referred back to the ENVI Committee with a view to a possible agreement in first reading on it.

The Economic and Social Committee and the Committee of the Regions delivered their Opinions on 10 July 2014 and on 7 October 2014 respectively.

3. The Council held two policy debates on the proposal, on 12 June 2014 and on 15 June 2015. The first debate focussed on the scope of the proposal and on the "stepwise approach" (2020-2025-2030), the second one focussed on the difficulties related to the 2030 horizon and the lead target of the Commission proposal, to reduce by more than 50% the number of premature death in the EU, with respect to 2005.

On 16 December 2015, the Council reached a general approach ³ on the above proposal with a view to facilitate future contacts with the European Parliament in the framework of an agreement at first reading.

¹ Point 54 (i) of the Annex: "implementing an updated Union air quality policy, aligned with the latest scientific knowledge, and developing and implementing measures to combat air pollution at source" OJ L 354, 28.12.2013, p 171.

² 13347/15.

³ 15401/15.

4. On 25 February, 4 April and 25 April 2016, respectively, three political trilogues took place in a positive and constructive spirit. The Presidency informed delegations about their outcome at COREPER on 26 February, 6 April and 27 April 2016 respectively. Six tripartite technical meetings took place on 11 March, on 7, 21 and 29 April, on 4 and 12 May 2016.

A fourth trilogue took place on 8 June 2016 without a positive outcome. The Presidency informed Coreper on 10 June on the problems encountered, and was encouraged to continue negotiations with the European Parliament within the framework of the Coreper mandate as agreed on 3 June 2016.

The progress achieved up to now and the remaining open issues are described in Section II below.

II. STATE OF PLAY

5. Progress on a number of the 118 EP amendments and on the acceptance by the EP of the modifications introduced in the Commission proposal by the Council in its general approach, concerned a number of points where compromise proposals were presented and provisionally agreed, in the context of a global compromise ⁴.

a) Overall, good progress was made in relation to:

- the objectives and subject matter in Article 1;
- the scope in Article 2;
- the definitions added in the general approach by Council in Article 3;
- financial support in Article 6a(new);
- emission inventories and projections in Article 7, Annex I and Annex IV;
- monitoring air pollution impacts in Article 8;

⁴ 9712/16.

- reporting by Member States in Article 9;
- the European Clean Air Forum in Article 10a (new);
- cooperation with third countries and international organisations (Article 12);
- Article 13 on exercise of the delegation and Article 14 on the Committee procedure;
- Article 16 amending Directive 2003/35/EC, 17 on transposition, Article 18 on transitional provisions.

b) A number of points are subject of compromise texts presented by the Council in the latest four column document, not yet discussed with the EP, where it is expected that an agreement is close. These concern:

- the links with the Ambient Air Quality Directive ⁵, with other EU environmental law and with other EU policies : amendments 23, 24 in Article 3 and Article 10 paragraph 2;
- the list of EU source-based air pollution control legislation, its public availability, and the need to review it in case of need : amendment 30 in Article 3, as well as amendments 79, 124 (first part), 127 in Article 11 paragraph 2a(c);
- the content of the national air pollution control programmes in Article 6 and Annex III, with the exception of measures in the agricultural sector (Annex III part 2 of the general approach);
- the tasks to be carried out by the Commission in the framework of its reports (Article 10) and for the review of the Directive (Article 10b (new));
- the mention of mercury (amendments 3 and 152);
- access to information (amendments 76, 84, Article 11);
- the support of investments in clean technologies (amendments 51, 56, and 109).

⁵ Directive 2008/50/EC (OJ L152, 11.6.2008, p.1).

c) A number of open issues remain outstanding, where further work is needed in order to reach a global compromise with the European Parliament. These relate to:

- the inclusion of methane in the scope of the Directive, supported by the Commission and the European Parliament (Articles 4, Annex II and provisions connected to methane in other Articles of the proposal);
- the mandatory/optional nature of measures related to the agricultural sector to be inserted in the national air pollution control programmes (Annex III part 2 of the general approach);
- the trajectory to be followed from 2020 to 2030 and the emission levels to be reached in 2025 (Article 4). While in the general approach a linear trajectory is the first choice, a non-linear trajectory could be envisaged, if justified. However, according to the EP, this trajectory should be linear. The 2025 emission levels are non-binding in the general approach, while the EP asks for such levels to be binding;
- the new flexibilities and deadlines added by the Council in the general approach (Articles 5, 6, 7 and Annex IV), where some possible solutions were explored, but not concluded upon, at the fourth trilogue;
- the content of delegated/implementing acts in Articles 6 paragraphs 7 and 9, and in Article 7 paragraph 9;
- access to justice in amendments 16, 31, 60, and 85;
- environmental inspections, market surveillance and references to real driving emissions in amendments 17, 53, 124, and 55;
- the emission reduction commitments from 2030 onwards, in Annex II of the proposal. On this point, the Commission, supported by the EP maintains its proposal, which has a higher level of ambition than the Council's general approach.

III. CONCLUSION

6. The Permanent Representatives Committee and the Council are invited to take note of the present state of play.