



NGO Assessment of the European Year of Air

Achievements, failures and next steps

6 January 2014

Following the 2013 'Year of Air' it is now time to look back at what the European Commission has achieved and, more importantly, look at the next steps for 2014 and beyond. With this assessment, we will examine where we now stand compared to the start of 2013 and whether there were any tangible signs of EU action since then. In order to do so, we have used the three priorities outlined by environmental and health organisations at the start of 2013¹. For each of those priorities, we assessed whether the Commission had delivered, made progress, missed opportunities or delayed action.

We encourage the Commission not to wait for another "Year of Air" to complete, or in some cases start, the necessary work to protect European citizens' health and the environment against air pollution. We also call upon the European Parliament and Council to start work as soon as possible on the air package and to significantly raise the level of ambition of the Commission proposals to deliver clear and quicker benefits to our health, well-being and the environment.

Revised laws on air quality are long-awaited and extremely necessary. Air pollution causes more than 400,000 people a year to die prematurely in the EU and was this year declared a leading environmental cause of cancer deaths by the World Health Organisation (WHO)². Air pollution also impacts Europe's ecosystems, with two-thirds of the protected sites in the EU Natura 2000 network currently under severe threat from air pollution³. The economic costs of air pollution are enormous, amounting to between €330 and €940 billion in the year 2010 alone⁴.

¹ NGO priorities for the review of the Thematic Strategy on Air Pollution, March 2013 :

<http://www.eeb.org/EEB/?LinkServID=42BEBEBD-5056-B741-DBBE1878C116803B>

² http://www.iarc.fr/en/media-centre/iarcnews/pdf/pr221_E.pdf

³ <http://ec.europa.eu/environment/pubs/pdf/factsheets/air/en.pdf>

⁴ http://europa.eu/rapid/press-release_SPEECH-13-822_en.htm

Priority Action 1: Ambitious emission reduction commitments in the revised NEC Directive

Assessment: too little, very late

While the publication of a proposal to revise the National Emission Ceilings (NEC) Directive is in itself a step forward, the Commission's lack of ambition in the proposal is very disappointing. Given the long delay in revising the Directive, the widespread damage to health, environment and society at large and high associated economic costs, the Commission could and should have proposed more significant cuts in emissions both in the short and medium term.

In particular we note with great disappointment:

- The worrying lack of ambition of the 2020 emission reductions targets which are only a copy-paste exercise from the revised 2012 Gothenburg Protocol. Those targets are even less ambitious than the emission levels under a business-as-usual scenario, i.e. the levels that EU Member States will achieve anyway, merely by implementing their obligations under existing EU and national legislation.
- For 2025, no legally binding targets are proposed, bowing to pressure from industry groups to delay action until 2030.
- For 2030 targets have not only been set to be achieved too late but they are also far from sufficient to achieve the EU's air quality objectives. The level of 70 per cent "gap closure" between the baseline scenario and what is technically feasible is too narrow and excludes a whole range of technical and non technical measures which are available and needed to improve air quality. Non technical solutions such as promoting sustainable transport modes, increasing energy efficiency, sustainable farming or the use of economic instruments are already being implemented in some parts of the EU and need to become standard practice. Technical and non-technical measures combined could take the EU far beyond what is 'technically' feasible, and often at lower cost.

By proposing no new binding commitments until 2030 – i.e. sixteen years from now - the Commission has shown a dismal lack of leadership and missed an opportunity to use its right of initiative to set a bolder agenda to finally solve Europe's air quality problems.

Concerning the scope of the Directive, we welcome the introduction of emission reduction commitments for methane, which was missing from the previous Directive, despite methane's contribution to ground-level ozone, a pollutant with one of the greatest impacts on human health. Ozone also damages crops, ecosystems and materials. Methane is also a potent greenhouse gas which contributes significantly to climate change.

However, we regret the fact that the Commission missed the opportunity to include emission reductions for mercury, a global pollutant with severe adverse impacts on human health and the environment. The inclusion of mercury in the NEC Directive would help to ensure overall mercury

emission reductions, as agreed by the EU in the new Minamata Convention. It would help deliver significant benefits for human health, ecosystems, wildlife populations and the environment⁵.

We therefore call upon the European Parliament and Council to support stricter emission reduction commitments for 2020, 2025 and 2030, in particular:

- Support meaningful emission reductions by 2020 and 2025 and aim to achieve ‘no significant impacts on human health and the environment’ by 2030 at the latest;
- Support the inclusion of emission reduction commitments for methane to start in 2020 and the inclusion of emission reduction commitments for mercury for all three target years;

This will deliver tangible benefits for Europe, including lives saved, healthier citizens, a better environment, and higher productivity due to fewer lost working days. There is absolutely no reason to delay action until 2030.

Priority Action 2: Adoption of sectoral legislation to cut emissions from all major sources

Assessment: work in progress

We welcome the Commission’s efforts during the review to address serious gaps in EU legislation concerning several polluting sectors. This resulted for instance in the proposal to address emissions from medium scale combustion installations (1-50 MW). However, the picture remains incomplete with no new firm obligations on Member States to further reduce emissions from shipping, cars, non-road mobile machinery and agriculture. We need to see more efforts both from the EU legislators and from the relevant Commission Directorates.

INDUSTRIAL EMISSIONS

We welcome the Commission’s initiative to fill an important regulatory gap by proposing a Directive addressing emissions from medium scale combustion installations (1-50 MW). This category of industrial emissions, together with other sectors such as cattle farming, was out of the scope of the Industrial Emissions Directive (IED) despite important contributions to air pollution. However, we regret that the emission limit values set in the Commission’s proposal are less stringent than some of the limits already in place at national level⁶. Moreover, the Commission missed the opportunity to set up a permitting regime as for other sectors under the IED.

⁵ See EEB position paper concerning the inclusion of mercury in the NEC Directive : <http://www.eeb.org/?LinkServID=AD428325-5056-B741-DBD38576E1DD11C9&showMeta=0&aa>

⁶ See comparison between options 7B and 7D, pages 339-340 of the European Commission’s Impact Assessment: http://ec.europa.eu/environment/air/pdf/clean_air/Impact_assessment_en.pdf

We therefore call upon the European Parliament and Council to:

- Support the adoption of emission limit values in line with the best available techniques (BAT) in place in the sector, both for new and existing plants;
- Support the introduction of a permitting regime, at least for plants bigger than 20 MW as already exists in several EU Member States.

In the meantime, the European Commission should:

- Start work to fill gaps in the IED, including considering the inclusion of cattle in the Directive and extending the EU safety net of IED Annexes to harmful air pollutants such as mercury;
- Prevent and reject the use of optional derogations under the IED which will lead to greater risks of exposure for populations and ecosystems;
- Ensure BAT compliance for relevant industrial activities.

AGRICULTURE

Despite strengthened ceilings for ammonia for 2030 and the introduction of methane ceilings in the revised NEC Directive, the Commission missed the opportunity to set up a mandatory framework to regulate emissions from agriculture as it did for medium scale combustion. As a result of this, cattle remains out of the scope of the EU's industrial emissions policy framework, despite being the biggest contributor to ammonia emissions, leading to both eutrophication of sensitive ecosystems and to increased levels of secondary particulate matter (PM).

The focus on measures to address ammonia emissions contained in Part 1 of Annex III is welcome, but the proposed language is weak and needs strengthening to ensure adequate enforcement.

We therefore call upon the Commission to:

- Further investigate ways of cutting ammonia and methane emissions from the agriculture sector and propose specific EU-wide air pollution prevention and control measures, in particular concerning emissions from cattle.

We call upon the European Parliament and Council to:

- Strengthen the provisions under Article 6(2) and Part 1 of Annex III so that they are legally binding on Member States.

ROAD TRANSPORT

The system of limit values to reduce air pollution emissions from vehicles has been only partially effective due to inadequate testing regimes that result in vehicles producing much more pollution on the road than during tests. This is compounded by weak enforcement of legislation by Member States that allows cars which grossly exceed limits to continue to be driven due to the lack of on-road

spot testing and weak systems for periodic inspection. Member States are also failing to prevent the removal of pollution abatement equipment like diesel particulate filters that render the vehicle illegal to drive.

In 2011, the Commission started working with car manufacturers, environmental NGOs and other stakeholders to make sure that emission limits are met on the road and not just in the laboratories. Progress is inadequate and there is a risk the new procedures will be no more robust than laboratory testing by excluding the most demanding driving conditions and patterns (city and highway driving, sloping roads, cold temperatures) in which more pollution is emitted. This would allow cars to easily pass the new test without actually reducing their real-world emissions.

As part of the new Thematic Strategy on Air Pollution, the Commission did not propose any new, stricter EU standards for cars, apart from a voluntary scheme for Super Ultra-Low Emission Vehicles (SULEV).

We therefore call upon the Commission to:

- Adopt and implement the new procedure (use of Portable Emission Measurement Systems “PEMS” for measuring real driving emissions) to measure car pollutant emissions as soon as possible. The new Euro 6 emission standards for cars will enter into force in 2014. The new test should be applied at the same time, rather than 2017 as currently proposed;
- Make sure that the new test includes all driving conditions and patterns, especially the most polluting ones, so that cars driven on the roads respect legally binding emission limits;
- Ensure that the Periodic Testing and Inspection regime includes robust tailpipe measurements and does not use unreliable on-board diagnostic systems;
- Develop proposals to reinforce and align Euro standards for all vehicles (diesel and gasoline).

NON-ROAD MOBILE MACHINERY

The European Commission was set to present its proposal on the new legislation on Non Road Mobile Machinery (NRMM) during the Year of Air. However, the proposal has been delayed and will only be presented in the first trimester of 2014. Furthermore the reform scenarios being considered by the Commission for this legislation are much weaker than those already in place for trucks and would not deliver sufficient reductions of NOx and PM emissions from the NRMM sector. This is because these reform scenarios are based on incomplete data and do not properly take into account the economic costs of air pollution. The new NRMM legislation could therefore be a missed opportunity for the sector to contribute to improving air quality in the EU⁷.

We therefore call upon the European Commission to:

- Adopt a proposal which includes NOx, PM and particulate number (PN) emission limits for all non-road mobile machines similar to Euro VI standards for Heavy duty Vehicles (HDVs);

⁷ See joint NGO letter concerning the lack of data in the NRMM impact assessment:
<http://www.eeb.org/?LinkServID=3E07055C-5056-B741-DB39D194A39B19D9&showMeta=0&aa>

- Prevent loopholes in the regulations that delay their effective implementation;
- Ensure that the proposal is adopted as soon as possible in the first quarter of 2014.

SHIPPING

Without additional measures – not only for new ships but also for existing ones – nitrogen oxides (NOx) from international shipping will continue to increase. Even if measures were agreed for new ships, real emission reductions would take a long time to materialise due to the slow turnover of the fleet.

We note with concern the lack of proposals for new binding measures to address emissions from the shipping sector.

We therefore call upon EU Member States and the Commission to:

- Stand firm on the implementation date of 2016 for the International Maritime Organisation's (IMO) Tier III NOx standards, as initially agreed unanimously in 2008;
- Ensure the immediate designation of all sea areas around Europe as full SOx and NOx emission control areas (ECA). The Commission should support the Member States to work towards such a designation by the IMO;
- The EU should establish mandatory NOx emission standards for all ships – both new and existing – that enter EU ports.

DOMESTIC HEATING

Domestic heating is the biggest source of PM emissions in Europe, and is a growing public health concern. The primary EU instrument to reduce emissions from new appliances is the Ecodesign framework, in particular the requirements for air emissions for solid fuel boilers and local space heaters which are currently still under discussion.

We are deeply concerned about recent attempts by some Member States to weaken the standards proposed by the Commission, resulting in delays in adopting standards which are absolutely critical to improve the health of European citizens.

We therefore call upon EU Member States and the European Commission to:

- Support and adopt ambitious PM standards under the Ecodesign framework in the first quarter of 2014;
- Investigate ways of addressing emissions of *existing* appliances which contribute significantly to high PM concentrations and adverse health impacts.

SOLVENTS

We call upon the European Commission to consider the need for updating EU wide legislation and/or propose new action with the aim of reducing emissions of volatile organic compounds (VOCs) throughout the EU. This is currently absent from the Commission proposals.

Priority Action 3: Enforcement and strengthening of EU's ambient air quality limit values

Assessment: the Commission has gone worryingly silent

Despite the emergence of a growing body of scientific evidence that the current EU limit values are wholly inadequate to protect human health, the Commission has failed to make progress on infringement cases against Member States who fail to achieve those and failed to set a clear time-frame for revising the ambient air quality directive.

ENFORCEMENT OF THE AMBIENT AIR QUALITY LIMITS

Shortly after launching the year of air, the Commission announced a “fresh approach” to infringement cases on air quality.

During the first half of the year, new legal proceedings were started against the seventeen Member States still in breach of PM₁₀ limits. At the end of the year, not one of these cases has progressed to the second stage (a reasoned opinion - the final written warning before a Member State is referred to the European Court of Justice). So despite a promising start, the “fresh” approach has now gone rather stale.

In addition there have so far been no infringement actions on nitrogen dioxide (NO₂), despite twenty-two Member States being in breach of limits that came into force in 2010.

Lack of action on infringements will render the assurance of “full compliance with existing air quality standards by 2020 at the latest” an empty promise as it is dependent on progress being made on infringement cases in order to drive the necessary action at national level. In any event 2020 is far too late, being ten and fifteen years respectively after the respective deadlines for achieving PM₁₀ and NO₂ limits.

We therefore call upon the European Commission to:

- Give the highest priority to infringement actions against all Member States which do not have a comprehensive plan in place to achieve PM₁₀ limits in the shortest time possible. This should see reasoned opinions issued in January 2014 and the first Member States referred to the European Court of Justice by May 2014 if they do not respond;
- Start infringement actions against all Member States in breach of NO₂ limits in January 2014;

- Come forward with ambitious proposals for an access to justice directive to ensure citizens can uphold their legal right to clean air before national courts.

STRENGTHENING AMBIENT AIR QUALITY LIMIT VALUES

The Commission has failed to set out a vision for moving towards stricter ambient air quality standards, despite growing evidence of the discrepancy between EU standards and the levels recommended by health experts/scientists⁸. Although we agree on the importance of prioritising source policy and the revision of the NEC Directive as a first and immediate step, we are concerned that the revision of the Ambient Air Quality Directive is absent from the EU's agenda, with no firm commitment in either the short, medium or long term to align EU standards with the World Health Organisation (WHO) recommendations. This is at odds with the latest research presented as part of the Commission's own review in the past two years, e.g. the WHO's REVIHAAP assessment which will see a tightening of the WHO's recommendations and this month's Lancet publication⁹.

Projections show that even if EU air quality standards will be largely met throughout the EU in 2020, Europeans will still suffer from the health effects of air pollution, including 340,000 premature deaths due to PM_{2.5} and ground level ozone¹⁰.

We therefore call upon the European Commission to:

- Propose new air quality standards in line with the latest health research in good time to allow entry into force by 2020 at the latest.

⁸ European Lung Foundation and European Respiratory Society (2013): Lung Health in Europe, Facts and Figures; see page 26

⁹ [http://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(13\)62158-3/abstract](http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(13)62158-3/abstract)

¹⁰ European Commission's impact assessment, page 24:
http://ec.europa.eu/environment/air/pdf/clean_air/Impact_assessment_en.pdf