

COUNCIL DIRECTIVE 93/12/EEC**of 23 March 1993****relating to the sulphur content of certain liquid fuels**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community and in particular Article 100 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

In cooperation with the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas in order to improve air quality with regard to sulphur dioxide and other emissions, the Community has to take measures to reduce progressively the sulphur content of gas oil used for self-propelling vehicles, including aircraft and vessels, and for heating, industrial and marine purposes;

Whereas, under Article 2 (1) and Article 5 (1) of Directive 75/716/EEC ⁽⁴⁾, the provisions in force in the Member States lay down two limits with respect to the sulphur content of liquid fuels; whereas these provisions differ from one Member State to another;

Whereas these differences oblige Community oil companies to adjust the maximum sulphur content of their products, depending on which Member State is being supplied; whereas such differences thus constitute a barrier to trade in these products, thereby directly affecting the establishment and functioning of the single market;

Whereas, in addition, Article 6 of Directive 75/716/EEC provides that in the light of any new information available the Commission is to submit a report to the Council accompanied by an appropriate proposal with a view to the establishment of a single value;

Whereas successive action programmes of the European Communities on the environment ⁽⁵⁾ stress the importance of preventing and reducing air pollution;

Whereas fuel quality plays an important role in reducing air pollution by vehicle exhaust emissions;

Whereas, in addition, by virtue of Decision 81/462/EEC ⁽⁶⁾ the Community is a contracting party to the Convention on long-range transboundary air pollution, which provides in particular for the development of strategies and policies to limit and, as far as possible, gradually reduce and prevent air pollution;

Whereas reducing the sulphur content of certain liquid fuels serves to further one of the Community's objectives, which is to preserve, protect and improve the quality of the environment and to contribute towards protecting human health, by rectifying environmental damage at source;

Whereas, in accordance with Directive 75/716/EEC, several Member States have already fixed a value of 0,2 % by weight;

Whereas Member States must take steps to ensure that diesel fuels of a maximum sulphur content of 0,05 % by weight are gradually made available;

Whereas, in order to attain the particulate emission levels set in specific Community Directives, the sulphur content of diesel fuels placed on the market within the Community may not exceed 0,2 % by weight as from 1 October 1994 and 0,05 % by weight as from 1 October 1996; whereas the Member States must take appropriate measures to achieve that objective;

Whereas the increasing use of gas oil for motor vehicles implies further efforts with regard to the quality of diesel fuel, in order to limit the adverse effects of such use on air quality; whereas setting a maximum sulphur content of 0,05 % by weight to apply from 1 October 1996 for diesel fuel allows the industries concerned sufficient time to make the technical adjustments required;

Whereas the other uses of gas oils and medium oils require an effort to be made to reduce air pollution, wherein account should be taken of their contribution having regard to air quality improvement and environmental costs and benefits; whereas the Commission should submit to the Council, which will take a decision

⁽¹⁾ OJ No C 174, 5. 7. 1991, p. 18 and OJ No C 120, 12. 5. 1992, p. 12.

⁽²⁾ OJ No C 94, 13. 4. 1992, p. 209 and OJ No C 337, 21. 12. 1992.

⁽³⁾ OJ No C 14, 20. 1. 1992, p. 17.

⁽⁴⁾ OJ No L 307, 27. 11. 1975, p. 22. Directive as amended by Directive 87/219/EEC (OJ No L 91, 3. 4. 1987, p. 19).

⁽⁵⁾ OJ No C 112, 20. 12. 1973, p. 1, OJ No C 139, 13. 6. 1977, p. 1 and OJ No C 46, 17. 2. 1983, p. 1.

⁽⁶⁾ OJ No L 171, 27. 6. 1981, p. 11.

thereon by 31 July 1994 at the latest, a proposal introducing, by 1 October 1999 at the latest, a lower limit for the sulphur content and setting new limit values for aviation kerosenes ;

Whereas a sudden change in crude oil supplies leading to an increase in average sulphur content may, in view of available desulphurization capacity, jeopardize supplies to consumers in a Member State ; whereas it would therefore seem advisable to authorize that Member State to derogate under certain conditions from the sulphur content limits laid down in respect of its own market ;

Whereas the introduction of a low sulphur content level in marine gas oils for sea-going ships raises specific technical and economic problems for Greece ; whereas a derogation of limited duration in favour of Greece should not depress trade in marine gas oils since Greek refinery installations currently cover no more than domestic demand for gas oils and medium oils ; whereas exports for final combustion from Greece to another Member State must comply with the provisions of the Directive applicable in that Member State ; whereas Greece could be granted a five-year derogation before introducing marine gas oils with the required sulphur content ; whereas this period will end on 30 September 1999 ;

Whereas spot checks should be carried out to ascertain the sulphur content of gas oils and medium oils placed on the market ; whereas for this purpose provision should be made for a uniform method based on the best available technology,

HAS ADOPTED THIS DIRECTIVE :

Article 1

1. For the purposes of this Directive :

- (a) 'gas oil' means any petroleum product falling under CN code 2710 00 69, or any petroleum product which, by reason of its distillation limits, falls within the category of middle distillates intended for use as fuel and of which at least 85 % by volume, including distillation losses, distils at 350° C ;
- (b) 'diesel fuels' means gas oils used for self-propelling vehicles as referred to in Directive 70/220/EEC⁽¹⁾ and Directive 88/77/EEC⁽²⁾.

⁽¹⁾ OJ No L 76, 6. 4. 1970, p. 1. Directive as last amended by Directive 91/441/EEC (OJ No L 242, 30. 8. 1991, p. 1).

⁽²⁾ OJ No L 36, 9. 2. 1988, p. 1. Directive as last amended by Directive 91/542/EEC (OJ No L 295, 25. 10. 1991, p. 1).

2. This Directive shall not apply to gas oils :

- contained in the fuel tanks of vessels, aircraft or motor vehicles crossing a frontier between a third country and a Member State ;
- intended for processing prior to final combustion.

Article 2

1. Member States shall, in order to reach the particulate emission levels laid down in specific Community Directives, prohibit the marketing of diesel fuels in the Community if their sulphur compound content, expressed in sulphur (hereinafter 'sulphur content'), exceeds :

- 0,2 % by weight as from 1 October 1994,
- 0,05 % by weight as from 1 October 1996.

Member States shall take steps to ensure that the diesel fuels referred to in the first paragraph with a sulphur content not exceeding 0,05 % by weight are gradually made available.

2. Member States shall prohibit the marketing in the Community of gas oils other than, or used for purposes other than, those referred to in paragraph 1 with the exception of aviation kerosene, as from 1 October 1994, if their sulphur content exceeds 0,2 % by weight.

Before 1 January 1994, the Commission shall indicate, in a report to the Council, what progress has been made in controlling sulphur dioxide emissions. At the same time it shall submit to the Council a proposal, in the more general framework of the policy to improve air quality, for transition to a second phase, prescribing a lower limit by 1 October 1999 at the latest, and setting new limit values for aviation kerosene.

The Council shall act by a qualified majority by 31 July 1994 at the latest.

3. If, as the result of a sudden change in the supply of crude oil or petroleum products, it becomes difficult for a Member State to apply the limit on the maximum sulphur content of gas oil, that Member State shall inform the Commission thereof. The Commission may authorize a higher limit to be applicable within the territory of that Member State for a period not exceeding six months, and shall notify its decision to the Council. Any Member State may contest that Decision before the Council within one month. The Council, acting by a qualified majority, may adopt a different decision within two months.

By way of derogation the Government of Greece may, up to 30 September 1999, authorize marketing of gas oil for marine use with a sulphur content in excess of 0,2 % by weight.

Article 3

No Member State may, as from the dates of application laid down in Article 2 (1) and (2), prohibit, restrict or prevent the placing on the market of gas oils on the grounds of their sulphur content, if those gas oils comply with the requirements of this Directive.

Article 4

1. Member States shall take all necessary measures to check by sampling the sulphur content of gas oils which are placed on the market.

2. The reference method adopted for determining the sulphur content of gas oils which are placed on the market shall be that defined by ISO method 8754. The statistical interpretation of the results of the checks made to determine the sulphur content of the gas oils placed on the market shall be made in accordance with ISO standard 4259 (1979 edition).

Article 5

As from 1 October 1994, Directive 75/716/EEC shall be replaced by this Directive.

Article 6

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 1 October 1994. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

Article 7

This Directive is addressed to the Member States.

Done at Brussels, 23 March 1993.

For the Council

The President

S. AUKEN