Opinion of the Economic and Social Committee on the 'Proposal for a European Parliament and Council Directive amending Council Directive 88/77/EEC on the approximation of the laws of the Member States relating to the measures to be taken against the emission of gaseous and particulate pollutants from diesel engines for use in vehicles' [1]

(98/C 407/05)

On 3 July 1998 the Council decided to consult the Economic and Social Committee, under Article 100a of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Industry, Commerce, Crafts and Services, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 8 July 1998. The rapporteur was Mr Bagliano.

The Economic and Social Committee, at its 357th plenary session (meeting of 9 September 1998), adopted the following opinion by 100 votes in favour, with 3 abstentions.

1. Introduction

1.1. Community requirements aimed at limiting polluting emissions from diesel engines for use in commercial vehicles are governed by Directive 88/77/EEC of 3 December 1987 [2], as amended by Directive 91/542/EEC of 1 October 1991 [3] and by Directive 96/1/EC of 22 January 1996 [4].

1.2. Article 5 of Directive 91/542/EEC entrusted the Commission with the task of proposing a further tightening of measures on pollution from such engines, applicable from 1 October 1999 and taking account of:

— technical progress;

— developments in the quality of fuels;

— the desirability of revising test procedures to bring them more in line with real conditions of use of commercial vehicles.

1.3. Subsequently the Auto-Oil I Programme (1996), covered by a communication from the Commission to the European Parliament and the Council [5], confirmed the need to tighten rules on emissions from commercial vehicles with special reference to nitrogen oxides (NO_x) and particulates. It also recommended a 30 % lowering of the limit values for these pollutants which came into force in 1996.

1.4. With this proposal the Commission is carrying out the mandate conferred on it by the Council (cf. Article 5 of Directive 91/542/EEC mentioned above), and its action is consistent with the recommendations of the Auto-Oil I Programme.

2. Summary of the Commission proposal

2.1. The Commission (see documents enclosed with the draft directive) proposes not only new limits on emissions from engines for use in commercial vehicles, but also some innovations as regards the scope of the Directive and the test procedures.

2.2. As regards the timetable, the Commission envisages the new measures coming into force from 1 October 2000 for new engine types and from 1 October 2001 for all engines already covered by a conformity certificate; thus the deadline given by the Council would be extended by a year (cf. 1.2).

2.3. The Commission also undertakes to draw up by 31 December 1999 a further proposal designed to bring about substantial reductions in engine emissions, covered in the present Directive, with effect from 31 October 2005 (see Article 4). This proposal will take account of progress made in:

— technological development;

— the definition of a test cycle harmonized on a worldwide basis;

— the perfecting of on-board diagnostic (OBD) systems;

— the definition of provisions on durability.

2.4. The innovations introduced by the Commission cover:

— extension of the scope to cover compressed natural gas (CNG) and liquefied petroleum gas (LPG) engines intended for commercial vehicles;

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[1] OJ C 173, 8.6.1998, p. 1.
[2] OJ L 36, 9.2.1988.
[3] OJ L 295, 25.10.1991.
[4] OJ L 40, 17.2.1996.
[5] COM(96) 248 final, 18.6.1996.

— a new test cycle under stationary conditions (ESC cycle) to replace the current one;

— checking smoke emissions in a test of dynamic response to sudden changes in load (ELR cycle) to be added to the smoke emission checks laid down in Directive 72/306/EEC of 2 August 1972;

— a transient test cycle (ETC cycle), i.e. one with variable speeds and loads.

2.5. The Commission also proposes that:

— all conventional diesel engines be made subject to the ESC and ELR test cycles;

— diesel engines equipped with advanced emission control systems be made subject to the two test cycles mentioned above and to the ETC transient test cycle;

— gaseous fuel engines (LPG or CNG) be made subject only to the ETC transient test cycle.

2.6. The new limit values for diesel engines represent a 30 % reduction in values for nitrogen oxides (NO_x) and particulates in comparison with the requirements which came into force in 1996, and taking account of the differences between the new and old test procedures.

2.7. For gaseous fuel engines tested according to the ETC procedure, 'differentiated' values are introduced for emissions of non-methane hydrocarbons and for methane emissions.

2.8. Finally, the Commission gives technical reasons to justify the application of a less strict particulate limit value to small high-speed diesel engines, as already laid down in Directive 96/1/EC. However, the reduction in particulate emissions is 40 % in comparison with the values applying up to 30 September 1997.

3. General comments

3.1. The Committee agrees with postponing the date of application of the proposed new rules by one year in comparison with the Council mandate (see points 1.2 and 2.2 above). Indeed, the important innovations proposed require sufficient advance warning for the industry to adapt.

3.2. A better correlation between test conditions and real conditions for road use of commercial vehicles (see point 2.4 above) will in practice produce a reduction in pollutant emissions which is greater than the percentages to be obtained by simply comparing limit values imposed in 1996 and those now proposed. This is all the more positive in that the increase in traffic for commercial purposes is increasingly evident, both in goods traffic and in passenger traffic, and hence it makes a growing contribution to atmospheric pollution.

3.3. In this context the Committee calls on the Commission to draw up, as soon as possible, a draft amendment to Directive 96/96/EC on periodic roadworthiness tests for motor vehicles. This draft should introduce roadside checks on smoke emissions by commercial vehicles. It is not uncommon on European roads to find vehicles which because of lack of maintenance, age, use of poor quality fuel, or for other reasons, emit clouds of black smoke and therefore probably much higher levels of pollutants than those which their original certificates indicate. Stricter, more efficient checks on circulating vehicles should be accompanied by measures to encourage replacement of the vehicles and the scrapping of vehicles whose age and mileage are excessive.

3.4. Clarity can at last be established in this sector by enlarging the scope of the directive (see 2.4) to cover engines using gaseous fuels (LPG and CNG). Hitherto there was no systematic set of rules limiting pollution by these engines. The Committee hopes there will be increasing use of vehicles based on these technologies, especially in urban areas, given their low pollutant and noise levels. To this end, consideration should be given to suitable fiscal instruments to encourage the purchase of gas-fuelled vehicles (CNG/LPG), thus improving air quality.

3.5. The Committee calls on the Commission to lay down stricter requirements for urban vehicles using gaseous fuels as the condition for the tax concessions mentioned in point 3.4.

3.6. The Committee also hopes that the initiative to develop a test cycle which is harmonized on a worldwide basis (see 2.3) will not slow down the process begun by this proposal to make available commercial vehicles which are increasingly environment-friendly. At the same time the Committee also realizes the importance — in what is more and more a world market — of harmonizing type-approval procedures on a world scale, with the aim of reaching a situation where type-approval in one country means acceptability in all.

4. **Specific comments**

4.1. *Test procedures*

The Committee agrees that current test procedures no longer correspond to the technical progress achieved and is pleased that the Commission is tackling this problem realistically through the present draft directive.

4.1.1. Up to now diesel engines had been given type-approval based on a test cycle known as the 13-mode cycle, which consists of 13 individual modes of steady engine speed/load operation. This 13-mode cycle, developed in the ECE/UN context in the 1970s, no longer offers adequate emissions control because, as a result of technical developments in both engines and vehicles, it does not fully represent the real operating conditions of the engines in use on the roads (see point 3.2).

The ever more widespread use of electronic systems of engine control makes it possible to optimize engine performance: for 'emissions' at specific points of simulated operation (13-mode) laid down in the test cycle, and for 'consumption' at the remaining points (neglecting emissions) thus 'deceiving' the cycle itself, i.e. falsifying the results for normal operation of the vehicle.

4.1.2. The Committee notes that the new test procedures — intended to provide a response to the problems mentioned above (correlation with real operating conditions and possibility of 'deceiving' the cycle) — have been developed under the auspices of the UN/ECE Group on Pollution and Energy (GRPE), and is pleased that:

— national experts, independent laboratories and experts from the industry itself took part in the work;

— different test cycles were assessed, including those of the transient type (see point 2.4);

— the Group took account of test procedures used by other countries (transient test cycle in the USA and stationary test cycle in Japan) and of the implications which the procedures have for the objectives set (e.g. for the USA test cycle: good correlation with actual operating conditions but little protection against the possibility of 'deceiving' the cycle).

4.1.3. The Committee welcomes the recommendations made by the experts and adopted by the Commission, but stresses the need for further study and experience in the field, and calls for a common solution to be drawn up for all engines with a view to the further tightening of requirements planned by the Commission for 2005. The Committee would also point out that any common solution must aim at a high level of environmental protection and therefore take due account of the operating conditions of the engine (such as the transient phases, e.g. acceleration phases) which correspond to high emission levels.

4.2. *Limit values*

4.2.1. The Committee notes that the new limits proposed by the Commission form part of a series of measures initiated on the basis of the Auto Oil I results. This study had the aim of identifying a set of measures intended to achieve — by 2010 — the levels of air quality recommended by the WHO [1], in the firm belief that the social costs of pollution justify this objective. At the same time this set of measures must be properly placed in a framework of optimizing the cost/benefit ratio.

4.2.2. The Committee draws attention to the important role which improvements in fuel quality can and must play in reducing emission levels from the road vehicles in circulation. It therefore takes the view that the measures planned for 2000 and 2005 should be extended to imposing (specific) requirements for diesel oils and petrols which are consistent with the Community's environmental objectives. To this end the Committee calls upon the Council/European Parliament to take decisions — at the conciliation stage, on the Commission proposals in this area — which meet the expectations of European citizens in terms of air quality.

4.2.3. The Committee hopes that the Commission, in drawing up this draft directive, has taken account of experience already acquired in certain Community countries (such as Sweden).

It would also point out that this proposal, like the one which will shortly be drawn up for 2005, will need to be assessed in the light of the commitments undertaken by the Commission in Kyoto on the reduction of CO_2 emissions.

4.2.4. The Committee endorses the Commission's decision (see 2.7) to introduce the concept of unburnt non-methane hydrocarbons in defining emissions limits for engines using gaseous fuels.

4.2.5. Although methane is an extremely stable gas and therefore does not contribute to the formation of ozone, the introduction of a maximum permissible limit for this gas (see Table 2 in point 6.2.1 of Annex I to the draft directive) should ensure that the large-scale use of gaseous fuels does not run counter to the need to contain the production of greenhouse-effect gases.

4.2.6. As regards small, high-speed diesel engines, the Committee endorses the technical reasons given by the Commission to justify a higher limit value for particulates (see 2.8). However, it stresses that — in the context of cooperation between the industry and

[1] World Health Organization.

the social partners (as already suggested in the ESC opinion of 1995 [1]) on Directive 96/1/EC) — the possibility should be considered of bringing this value in line with the 'limit value' laid down for all other diesel engines.

[1] OJ C 155, 21.6.1995.

Brussels, 9 September 1998.

The President
of the Economic and Social Committee
Tom JENKINS

Opinion of the Economic and Social Committee on the 'Proposal for a European Parliament and Council Directive on the harmonization of certain aspects of copyright and related rights in the information society' [1]

(98/C 407/06)

On 6 February 1998 the Council of the European Union decided to consult the Economic and Social Committee, under Article 100 A of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Industry, Commerce, Crafts and Services, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 8 July 1998. The rapporteur was Mr Moreland.

At its 357th plenary session (meeting of 9 September 1998), the Economic and Social Committee adopted the following opinion, by 93 votes in favour, 3 votes against and 2 abstentions.

1. Introduction: The Commission Proposal

1.1. This Draft Directive results from the responses to the Commission's Green Paper of 1995 [2]. However it is the latest in the flow of legislation which has followed the original Green Paper on Copyright and the Information Society of 1988 [3]. Arguably it is the most important proposal yet.

1.2. There are two fundamental reasons for this Directive: first, to continue the harmonization work on copyright and neighbouring rights following on from the Green Paper and, secondly, to implement in Community law the recent World Intellectual Property Organization (WIPO) treaties on copyright and performances and phonograms, entered into in Geneva in December 1996.

1.3. On the whole, the proposals are generally consistent with the Committee's comments on the Green Paper and with the WIPO treaties. The Commission has adopted a fourfold approach:

1.3.1. to maintain the proper working of the internal market;

1.3.2. to maintain maximum flexibility for the Member States in the context of subsidiarity;

1.3.3. to protect and safeguard intellectual property rights, especially rights in on-line content, and

1.3.4. to balance the need to protect intellectual property rights against the rights of users and of the public at large.

1.4. The central issue for debate is the extent to which certain exceptions to the harmonized copyright and related rights should be left to the interpretation of individual Member States. In other words, Member States are, in the current draft, left a considerable degree of discretion with regard to the precise level of these exceptions. These exceptions cover, inter alia, photocopying, non-commercial uses for the blind and deaf,

[1] OJ C 108, 7.4.1998, p. 6.
[2] 'Copyright and Related Rights in the Information Society', COM(95) 382 final of 19 July 1995; OJ C 97, 1.4.1996.
[3] 'Green Paper on Copyright and the Challenge of Technology — Copyright issues requiring immediate action' COM(88) 172 final of 7 June 1988; OJ C 71, 23.3.1989.