



COMMISSION OF THE EUROPEAN COMMUNITIES

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COMMUNICATION FROM THE COMMISSION
TO THE EUROPEAN PARLIAMENT

pursuant to the first subparagraph of Article 189 c (b) of the EC-Treaty

Common Position of the Council on the proposal for a Council Decision
to amend Council Decision 93/389/EEC for a monitoring mechanism of
Community CO₂ and other greenhouse gases

I PROCEDURAL MATTERS

1. The Commission submitted to the Council its original proposal on the above subject on 4 September 1996 (COM(96)369 final – 96/0192 (SYN)) (OJ C 314, 24.10.1996, p11)
2. The Economic and Social Committee gave its Opinion on 29 January 1997 (OJ C 89, 19.03.1997, p7)
3. The European Parliament gave its Opinion at first reading on 18 September 1997 (OJ C 304, 06.10.1997, p109)
4. The Commission submitted its amended proposal (COM (98)108 final - 96/0192 (SYN)) on 2 March 1998 (OJ C 120, 18.04.1998, p.22)
5. The Council reached agreement with a view to adopting a common position at its meeting on 23 March 1998
6. The Council adopted its common position on 16 June 1998.

II PURPOSE OF THE DECISION

The purpose of the Decision is to amend Decision 93/389/EEC so as to strengthen the monitoring mechanism; in particular to provide for monitoring after the year 2000 and to extend it to all greenhouse gases not controlled by the Montreal Protocol.

In taking into account the requirements of the Kyoto Protocol adopted by the Third Conference of the Parties to the United Nations Framework Convention on Climate Change (UNFCCC) on 11 December 1997, the Common Position aims also at evaluating progress made towards fulfilling the Community's commitments under the UNFCCC and the Kyoto Protocol.

III COMMISSION COMMENTS

III.1 General comments

The Kyoto Protocol to the United Nations Framework Convention on Climate Change (UNFCCC) was adopted before the Council reached a Common Position and the opportunity was taken to adapt the proposal for a Decision accordingly, in particular in order for it to:

- cover all gases covered under the Protocol, including industrial gases (HFCs, PFCs and SF6),
- apply in respect of the commitment period set out in the Kyoto Protocol and
- monitor progress made within the Community towards meeting the commitments deriving from both the UNFCCC and the Protocol.

An important number of Parliament's amendments have been incorporated in full or in part in the Common Position.

III.2 Detailed comments

III.2.1 Parliament's amendments accepted by the Commission in the amended proposal and incorporated in full or in part in the common position

Amendments 1, 2, 3, 4, 6, 7, 8 and 12 were incorporated in full or in part in the Common Position.

Preamble

- Amendment 1 is incorporated. It has been partly redrafted in order to include the results of the Kyoto conference.
- Amendment 2 is incorporated in full.

Article 2(2)

- Amendments 3 and 12 are incorporated in full.
- Amendment 4 is incorporated. It has been partly redrafted in order to take into account the results of the Kyoto conference.

Article 3

- Amendment 6 added a sub-paragraph to Article 3, which the Council has shortened.

Article 5

- Amendment 7, which restored the original Article 5 in respect of evaluation of national programmes, has been incorporated in the Common Position with modifications as set out in III.2.3.

Article 6

- Amendment 8 was accepted in part. The Common Position states that the Commission may include the best available data in its report to the Parliament and the Council instead of requesting the Commission to make an explicit reference to the absence of data from a Member State.

III.2.2. Parliament's amendments accepted by the Commission in full or in part in the amended proposal, but not included in the common position

Amendments 9 and 11 are not included in the Common position.

Article 2(2)

- The other greenhouse gases for which information has to be given under the FCCC are only listed. The deletion of amendment 11 simplifies the issue in a positive way.

Article 8

- Despite the Commission's reluctance, the Council rejected amendment 9 on comitology. The Common Position has changed the proposed Procedure I Committee (advisory) to a III (a) Committee (regulatory).

III.2.3 Changes made by Council in the Common Position

Preamble

- The Preamble was streamlined chiefly by eliminating the "whereas" clauses which referred mainly to the different phases in the process leading to the adoption of the Kyoto Protocol and replaced them with wording referring to the outcome of that process.
- A reference to the possible future updating of the monitoring process was introduced to reflect further decisions in the framework of the Kyoto Protocol.

Article 1

- This has been changed to stipulate that the monitoring mechanism is designed not only to monitor the emissions in Member States, but also aimed at evaluating progress towards meeting commitments in respect of these emissions.

Article 2

- Article 2 concerning "national programmes" has been reshuffled in order to take into account the outcome of the Kyoto Protocol and in particular of the requirements deriving from it for the Community and its Member

States. The monitoring as updated will also contribute to the evaluation of the progress made by the Community and its Member States towards fulfilling the UN Climate Change Convention and the Protocol's commitments. This Article was reorganised also to make a distinction between the requirements of the Convention and those stemming from the Kyoto Protocol.

Article 2(1)

- The first indent now includes reference to Council Conclusions of 15 and 16 December 1994 for reasons of completeness.
- The second indent now refers not only to the fulfilment of the Community's commitments under the UN Climate Change Convention, but also to those under the Kyoto Protocol.
- A third indent was added as an additional purpose to which the programmes are to contribute: the transparent and accurate monitoring of progress of Member States (including the contribution made by Community measures) in meeting "agreed national contributions" to the just above commitments.

Article 2(2)

- The Common position makes a clear distinction between different categories of reporting requirements to be reflected in national programmes: subparagraph (a) refers to the UN Convention on Climate Change; subparagraph (b) refers to the Kyoto Protocol and subparagraph (c) refers to the other greenhouse gases for which only information is requested.
- The Chapeau of subparagraph (b) states which gases are controlled under the Kyoto Protocol: carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs) and sulphur hexafluoride (SF₆). For the three latter gases, Parties may chose 1990 or 1995 as base year. This provision is incorporated in the second indent.
- The last indent but one of subparagraph (b) is also amended to reflect the first commitment period (2008-2012) adopted under the Kyoto Protocol. It is in line with the spirit of Amendment 4 of the European Parliament although estimates of the effect of policies and measures for 2005 should be included 'to the extent possible' in the Member State national programme.
- Subparagraph (c) refers only to other greenhouse gases other than those controlled by the Kyoto Protocol. SO_x are now added to the original list. Their estimates for emission projections required in the third indent to that paragraph are to be included "as far as possible".

Article 3(1)

- Article 3(1) concerning inventories and data reporting has been revised in order to incorporate provisions of the Kyoto Protocol.

Article 3(2)

- Member States have now until 31 December to submit each year to the Commission their emissions, their removals and emissions projections.

- Member States shall report on the most recent projected emissions by sources and removals by sinks of the six greenhouse gases to be controlled under the Kyoto Protocol for the prescribed period (2008 to 2012) and, as far as possible for 2005.
- The last indent was originally proposed by the European Parliament and accepted by the Commission. The Council has subsequently shortened it and did not retain the further reference to common modelling guidelines.

Article 3(3)

- This paragraph introduces a new deadline (1 March) for the Commission to circulate the inventories to the Member States.

Article 4

No amendment proposed. The text is identical to that of Article 4 of Decision 389/93.

Article 5

The Common Position introduces some modifications to Article 5 on the evaluation of national programmes. The most significant is:

- A reference was added provision to the European Environment Agency which will assist in compiling the Commission's evaluation report "as appropriate, in accordance with its annual work programme".

Article 6

- The text was modified to be in line with the amended Article 2 (1). The actual and projected progress of Member States shall be assessed annually towards achieving both the UNFCCC and the Kyoto commitments.

Article 2

For reason of clarity, the Common Position states that this Decision shall enter into force on 1 January 1999.

III.2.4 Amendment 5 was not included in the amended proposal and were not incorporated in the common position for the reasons explained in the explanatory memorandum of the amended proposal.

III.3 Conclusions

The Commission is of the opinion that the Common Position represents an acceptable compromise, since it takes into account the main concerns of the Commission and the Parliament. The monitoring mechanism may still require further amendments to reflect future decisions in the framework of the Kyoto Protocol, particularly in respect of the flexible mechanisms and of the reporting requirements and measurement of "sinks" activities.