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DOCUMENT 1-82/83

REPORT

drawn up on behalf of the Committee on the Environment,
Public Health and Consumer Protection

on the proposal from the Commission of the European Communities
to the Council (Doc. 1-192/82 - COM(82) 170 final) for a directive
amending Directive No. 70/220/EEC on the approximation of the laws
of the Member States relating to measures to be taken against air
pollution by gases from positive-ignition engines of motor vehicles

Rapporteur: Mr K. COLLINS



By letter of 15 April 1982, the President of the Council of the European Communities requested the European Parliament to deliver an opinion, pursuant to Article 235 of the EEC Treaty, on the proposal from the Commission of the European Communities to the Council for a Council Directive amending Council Directive No. 70/220/EEC on the approximation of the laws of the Member States relating to measures to be taken against air pollution by gases from positive-ignition engines of motor vehicles (Doc. 1-192/82).

On 28 April 1982, the President of the European Parliament referred this proposal to the Committee on Public Health and Consumer Protection as the committee responsible and the Committee on Economic and Monetary Affairs, the Legal Affairs Committee and the Committee on Transport for an opinion.

At its meeting of 23 June 1982, the Committee on the Environment, Public Health and Consumer Protection appointed Mr Collins rapporteur.

The Committee considered the Commission's proposal and the draft report at its meetings of 18 October 1982, 24 February 1983 and 16 March 1983.

At the latter meeting, the Committee unanimously decided to recommend to Parliament that it approve the Commission's proposal with the following amendments.

The Committee subsequently decided to propose to reserve the right to propose to parliament the application of Rule 36(2).

The Committee then unanimously adopted the motion for a resolution as a whole.

The following took part in the vote: Mr Ryan, acting chairman, Mrs. Weber, vice-chairman; Mr. Collins, rapporteur; Mr. Bombard; Mr. Ceravolo, (deputizing for Mr. Spinelli); Mr. Del Duca, Mr. Eisma (deputizing for Mrs. Spaak); Mr. Ghergo; Mrs. van Hemeldonck; Miss Hooper; Mrs. Krouwel-Vlam, Mrs. Lentz-Cornette, Mr. Mertens, (deputizing for Mr. Alber); Mrs. Pantazi, Mr. Provan (deputizing for Mr. Forth), Mr. Remilly; Mrs. Schleicher; Mrs. Seibel-Emmerling; Dr. Sherlock and Sir Peter Vanneck (deputizing for Mr. Johnson).

The opinions of the Committee on Economic and Monetary Affairs, the Legal Affairs Committee and the Committee on Transport are attached.

This report was deposited on 22 March 1983.

CONTENTS

	<u>Page</u>
Amendments to the Commission proposals	5
A. MOTION FOR A RESOLUTION	7
B. EXPLANATORY STATEMENT	9
Opinion of the Committee on Economic and Monetary Affairs	13
Opinion of the Legal Affairs Committee	17
Opinion of the Committee on Transport	27

The Committee on the Environment, Public Health and Consumer Protection hereby submits to the European Parliament the following amendments and motion for a resolution, together with explanatory statement:

Amendments by the Committee on the Environment, Public Health and Consumer Protection

Text proposed by the Commission of the European Communities

Proposal for a Council Directive amending Council Directive No. 70/220/EEC on the approximation of the laws of the Member States relating to measures to be taken against air pollution by gases from positive-ignition engines of motor vehicles

Amendment No. 1

Amend the title of the proposal as follows:

"Proposal for a Council Directive repealing Directives 70/220/EEC, 74/290/EEC, 77/107/EEC and 78/665/EEC and providing for the approximation of the laws of the Member States relating to measures to be taken against air pollution by gases from positive-ignition and compression-ignition engines of motor vehicles"

Amendment No. 2

Insert the following new Article 2 bis:

- "i) Where amendments to the annexes of this directive are necessary to take account of technical progress, the Commission shall transmit such proposed amendments to the European Parliament at least three months or two part-sessions, whichever is the greater period, before the adoption of such amendments is required.
- ii) Where the European Parliament informs the Commission that it wishes to give an opinion on such proposed amendments, their adoption shall be postponed for an additional three months or two part-sessions, whichever is the greater period.

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- iii) The Commission shall adopt the measures envisaged where they are in accordance with the opinion of the European Parliament or if no such opinion is adopted.
 - iv) Where the measures envisaged are not in accordance with the opinion of the European Parliament, the Commission shall without delay propose to the Council the measures to be adopted. The Council shall act by a qualified majority.
 - v) If, within three months of the proposals' being submitted to it, the Council has not acted, the proposed measures shall be adopted by the Commission."

MOTION FOR A RESOLUTION

closing the procedure for consultation of the European Parliament on the proposal from the Commission of the European Communities to the Council for a directive amending Directive No. 70/220/EEC on the approximation of the laws of the Member States relating to measures to be taken against air pollution by gases from positive-ignition engines of motor vehicles

The European Parliament,

- having regard to the proposal from the Commission of the European Communities to the Council¹,
 - having been consulted by the Council (Doc. 1-192/82),
 - having regard to the report of the Committee on the Environment, Public Health and Consumer Protection and the opinions of the Committee on Economic and Monetary Affairs, the Legal Affairs Committee and the Committee on Transport (Doc. 1-82/83),
 - having regard to the result of the vote on the proposal from the Commission,
1. Welcomes the Commission's proposal, which takes into account the increasing density of motor traffic throughout the Community;
 2. Approves the Commission's proposal to extend the scope of the original directive to cover diesel engines in cars and light commercial vehicles;
 3. Emphasizes the need to introduce similar measures to deal with air pollution from diesel engines of heavy vehicles;
 4. Considers that until a system of periodic checks on vehicles is introduced in all Member States, the proposed directive will never be properly enforced;
 5. Requests therefore the Commission to draw up a proposal on the harmonization of compulsory technical checks on motor vehicles throughout the Community;
 6. Calls on the Commission to present findings to the European Parliament on the positive results of the implementation of the present directive not later than the end of 1985.

¹

OJ No. C 181, 19.7.82, p. 30

7. Believes that the European Parliament must be permitted to bring its political judgment to bear on proposals for implementing legislation in this area.

8. Instructs its President to forward to the Commission and the Council the proposal from the Commission as voted by Parliament and the corresponding resolution as Parliament's opinion.

EXPLANATORY STATEMENTBACKGROUND

1. On 20 March 1970 the Council adopted a directive on the approximation of the laws of the Member States relating to measures to be taken against air pollution by gases from positive-ignition engines of motor vehicles.¹ In this directive limit values applicable to the emissions of carbon monoxide (CO) and unburnt hydrocarbons (HC) were laid down for the Community as a whole. In 1974 these limit values were reduced. In 1976 maximum values for nitrogen oxide (NO_x) emissions were laid down. Finally in 1978 the limit values applicable to the three pollutants were further reduced.

2. The Commission now considers that in view of the increase in traffic density a further reduction in the limit values is desirable. Resulting from consultations with national experts and representatives of the automobile industry, the present proposal attempts to achieve a 23% reduction in CO emissions and 20 - 30% reduction in combined HC, NO_x emissions.

3. It has been decided to establish a combined limit value for the emission of HC and NO_x as it would appear that the latest information reveals that it is the interaction between these pollutants that contributes to the formation of smog.

4. The proposal also provides for the adoption of the constant-volume sampling and analysis method at present used in the United States, Japan and Sweden.

5. The proposal further brings the emissions from diesel engines in cars and light commercial vehicles within the scope of the directive.

IMPACT OF THE PROPOSED DIRECTIVE

6. According to the Commission the reduction of the limit values will ensure greater protection of human health and of the environment. The price to be paid is not negligible in that the repercussions in terms of construction costs and fuel consumption are likely to be considerable. The manufacturers have indicated that the levels and time scale proposed by the Commission are acceptable and can be met by the industry, but they will result in roughly a 3% increase in cost and 5% increase in fuel consumption. Here the Commission has made a choice which is essentially a political one, and the committee approves this choice.

7. It would be interesting to see whether the implementation of the original directive and the reductions in limit values introduced in 1974 and 1978 have effectively reduced air pollution throughout the Community. Obviously this directive cannot be taken in isolation and must be considered together with other measures covering noxious emissions. The committee would ask the Commission, therefore, to indicate if studies have been carried out in this area and if there have been any conclusive findings.

EXTENSION OF THE SCOPE OF THE DIRECTIVE

8. Although the Commission proposes that the scope of the directive will be extended to cover diesel engines in cars and light commercial vehicles it excludes heavy commercial vehicles with diesel engines.

9. The committee considers that in view of the increasing number of heavy commercial vehicles in use throughout the Community, special provisions should be introduced to cover this category.

IMPLEMENTATION OF THE DIRECTIVE

10. In certain Member States systematic checks are carried out on motor vehicles to ensure not only that the vehicles are roadworthy but that the exhaust emissions comply with existing legislation. Unfortunately this practice does not exist in all Member States and the committee wonders how effectively the directive can be implemented without these checks taking place on a regular basis.

11. The committee believes that quite apart from any considerations of air pollution, in the general context of road safety it would be advisable for the Commission to draw up proposals concerning the harmonization of technical checks on motor vehicles throughout the Community. This request has accordingly been made in the motion for a resolution.

CONSIDERATION OF THE OPINION OF THE LEGAL AFFAIRS COMMITTEE

12. Account has been taken of the opinion of the Legal Affairs Committee attached to this report. However, the Committee has decided to present the amendments proposed in the draft opinion, and not those subsequently adopted by the Legal Affairs Committee.

CONCLUSIONS

13. The committee is satisfied that there are no major objections from the environmental point of view to this directive. It will inevitably result in increased cost to the consumer but this will probably be offset by the general benefits resulting from the directive. It is rare that environmental considerations take precedence over economic arguments, and the Commission is to be congratulated on its approach.

14. The committee would like to see separate measures introduced for diesel engines of heavy commercial vehicles, which are excluded from the present directive.

15. The Commission is also asked to draw up proposals for the harmonization of technical checks on motor vehicles and to provide statistics showing the positive results for the application of the directive.

16. For the reasons outlined in the opinion of the Legal Affairs Committee, two amendments have been proposed to the Commission's text. The wording of these amendments differs slightly from that proposed by the Legal Affairs Committee.

O P I N I O N

of the Committee on Economic and Monetary Affairs

Draftsman: Mr von Wogau

On 22 September 1982 the Committee on Economic and Monetary Affairs appointed Mr von Wogau draftsman of the opinion.

At its meeting of 18 January 1983 the committee examined the draft opinion. It adopted the conclusions contained therein unanimously.

The following took part in the vote: Mr Hopper, acting chairman; Mr Macario and Mr Deleau, vice-chairmen; Mr de Ferranti (deputising for the draftsman); Mr Beazley, Mr von Bismarck, Mr Carossino (deputising for Mr Bonaccini); Mr Delorozoy, Mr de Gucht, Mr Herman, Mr Leonardi, Mrs T Nielsen (deputising for Mr Nordmann); Mr Nyborg, Mr Papantoniou, Mr Rogers, Mr Schinzel, Mr Seal (deputising for Mr Schwarzenberg), Mr Van Rompuy and Mr Vergeer.

1. Standards were laid down some time ago with regard to the emission of carbon monoxide (CO) and unburnt hydrocarbons (HC) as well as nitrogen oxide (NO_x). Owing to technical progress, it has been possible to reduce these limit values several times. The Commission takes the view that a further reduction in the limit values is necessary in order to avoid a fresh increase in pollution as a result of the increases in traffic density in highly urbanized areas of the Community. It therefore proposes to reduce the limit values by 23% in the case of emissions of carbon monoxide and by 20 to 30% in the case of combined emissions of HC and NO_x. The Committee on Economic and Monetary Affairs would like to point out once more in this connection how important it is that these standards be laid down at European level. For this reason it notes with satisfaction the harmonization which has been achieved in this field within the Community, because the limit values have been the subject-matter of Community directives since 1970.

2. The question of the cost of the proposed reduction of the limit values with regard to CO, HC and NO_x emissions must however be closely examined. The Commission proposal seems to lead to an increase of 5% in fuel consumption and to an increase of 3% on average in manufacturing costs. As far as the increase in fuel consumption is concerned, the Commission takes the view that this can be offset by a reduction in fuel consumption as a result of technical modifications to motor vehicles, enabling car manufacturers to fulfil their undertaking to reduce by 1985 the fuel consumption of cars sold in the Community by 10% in comparison with 1978. The reduction in air pollution cannot however serve as a pretext for an increase in fuel consumption. Accordingly, an increase of 5% in fuel consumption must be financed as well as an increase of 3% in manufacturing costs; there is thus a considerable price to be paid for the achievement of this ecological objective. The Committee on Economic and Monetary Affairs therefore takes the view that it is necessary to examine closely whether the improvement in the quality of the atmosphere justifies these high costs.

3. It seems to some extent surprising that the Commission considers that the measures to be adopted are so urgent that there is not even time to take them as part of the overall harmonization in the area of the European automobile industry planned by the Commission¹.

The Commission takes the view that 'given the moderate nature of the measures proposed and the urgent need for a decision to be taken in this connection, these measures should be dealt with outside the scope of the general approach' to overall

¹COM(81) 317 final of 11 June 1981

harmonization. In view of the expenditure incurred as a result of it, the question however arises whether the proposed measure is in fact so moderate. The Commission proposes to apply this approach to all subsequent stages in the formulation of Community rules in this area. 'The aims of these stages will be determined on the basis of a detailed examination of the economic, environmental and social effects of the measures envisaged. This will, at the same time, ensure greater protection of human health and of the environment and will provide a regulatory framework appropriate to the satisfactory development of the Community automobile industry'. In the view of the Committee on Economic and Monetary Affairs the financial repercussions of this proposal are so far-reaching that the Community rules in this area must also be complied with in the case of this proposal.

4. In addition it must be noted that the reduction in the exhaust gases of newly registered motor vehicles is not the only way in which air pollution can be controlled. Other measures which might possibly lead to the same result could, for example, be the introduction of a system of regular monitoring of motor vehicles, appropriate town planning measures and so forth. Before a decision is taken on a reduction in the permissible levels of exhaust gases of newly registered motor vehicles it should be considered whether the same result in terms of air purity may be achieved by other measures and it is also necessary, of course, to examine the cost of the various alternatives.

5. In addition to the reduction in the limit values for petrol engines it is, moreover, proposed to extend the scope of the directive to diesel engines as well. The Committee on Economic and Monetary Affairs agrees with this extension of the scope of the directive since the constant increase in diesel engines might prompt several Member States to adopt national measures, which could be avoided by Community rules. In this way the creation of new technical barriers to trade will be forestalled. The observations made as regards the financial repercussions of the directive also apply to diesel engines.

6. The proposal also provides for an alteration in the testing method formerly used, which is now to be replaced by the constant-volume sampling and analysis method. The Commission mentions in addition the work of the Group of Rapporteurs on Atmospheric Pollution and Energy (GRPE) of the United Nations Economic Commission for Europe. The 04 series of amendments to Regulation 15, which was recently introduced, accords with the common attitude of the Member States which was based on the Commission's data. As desired by a number of Member States, this proposal for a directive accordingly corresponds as closely as possible to that series of amendments. The question nevertheless arises in this connection why this 04 series of amendments has not been adopted in its entirety for the purposes of this proposal for a directive, especially since a common attitude has already been reached on this matter. A large proportion of the technical annex would thus be superfluous and could be replaced by a simple reference to these international rules. The same applies to the constant-volume sampling and analysis method is also described in the technical annex. The question also arises in this case whether this description could not be replaced by a simple reference to the internationally applicable standards since the Commission states in the explanatory memorandum that this method is widely used in the United States, Japan and Sweden.

Conclusions

The Committee on Economic and Monetary Affairs:

- (a) points out the costs of the proposed reduction in the maximum values for exhaust gases incurred as a result of an increase of 5% in fuel consumption and an average increase of 3% in manufacturing costs; points out, further, that these costs must ultimately be borne by the consumer; requests the Committee on the Environment, Public Health and Consumer Protection to take this fact into account when weighing up the balance of interests;
- (b) approves the extension of the scope of the directive to diesel engines;
- (c) declares that it is in favour of the adoption in its entirety of the 04 series of amendments to Regulation 15 of the United Nations Economic Commission for Europe, as the Member States have already worked out a common attitude on this issue and the technical annex can thus be replaced by a simple reference to these rules, and repeats in this connection its opinion that it is not the Community's task to draw up technical standards but that reference should instead be made to the standards laid down by European or international standards institutes.

O P I N I O N

of the Legal Affairs Committee

On 13 July 1982, the Legal Affairs Committee appointed Mr TYRRELL draftsman of the opinion.

The Committee considered the draft opinion at its meetings of 19 and 20 January and 15 and 16 February 1983. It adopted the draft opinion unanimously at the latter meeting.

The following took part in the vote: Mrs Veil, chairman; Mr Prout, acting draftsman; Mr Forth, Mr Malangré, Mr Megahy, Mr Poniridis, Mr Sieglerschmidt, Mrs Vayssade and Mr Vié.

Introduction

1. In order to appreciate the full importance of the proposal for a directive currently under consideration, it is necessary to examine a number of previous directives in the matter of type-approval of motor vehicles and measures against air pollution by gases from positive-ignition engines of motor vehicles, and the procedures which were provided for adapting these directives to technical progress. Such an examination is necessary to show the extent to which the exercise by the Parliament of its advisory and supervisory powers in this important if apparently highly technical area has been, at least partially, circumscribed: higher vehicle construction costs and a possible 5% increase in fuel consumption is arguably a matter of such political significance that it should not entirely escape the scrutiny of the European Parliament.

Council Directive 70/156/EEC

2. Adopted by the Council on 6 February 1970, Council Directive 70/156/EEC¹ provides a procedure "whereby a Member State certifies that a vehicle type satisfies the technical requirements of" the relevant directives; the stipulation that "no application in respect of any one type of vehicle may be submitted to more than one Member State" (Article 3) combined with an obligation on Member States to register a vehicle so certified ensures that the certificate is uniformly valid throughout the Community.

Of more particular note, however, is the procedure laid down in Articles 12 and 13 of the directive for the adaptation to technical progress of the annexes to both the present directive and to later directives in the same field. Article 12 sets up a Committee on the Adaptation to Technical progress of the Directives on the Removal of "Technical Barriers to Trade in the Motor Vehicle Sector" ("the Committee") consisting of representatives of the Member States with a representative of the Commission of the European Communities as non-voting chairman. The Committee, a type of management committee, is bound to deliver an opinion on proposals made by the Commission within a time limit set by the chairman, the votes being by qualified majority with weighting

¹ OJ, L 42, 23 February 1970, page 1.

in accordance with figures provided by Article 148(2) of the EEC Treaty. Three situations can arise following the Committee's opinion:

- a) If the opinion is favourable, the Commission is then empowered to adopt the measures itself;
- b) If the Committee produces a negative opinion, or no opinion at all, the Commission is obliged to propose the measures to the Council;
- c) Should the Council not act within three months of the proposal's being submitted to it, once again the Commission is empowered to adopt the measures.

Council Directive 70/220/EEC

3. The first directive which lays down limit values for carbon monoxide and unburnt hydrocarbons in motor engine exhaust fumes was adopted by the Council on the 20 March 1970, Directive 70/220/EEC¹; its passage was expedited at least partially in response to the adoption of measures by the Federal Republic of Germany and France on this subject which were in the Commission's view liable to endanger the common market in motor vehicles. The directive provides that "no Member State may refuse to grant EEC type-approval or national type-approval of a vehicle on grounds relating to air pollution by gases from positive-ignition engines of motor vehicles" where the vehicle in question satisfies the requirements laid down in the first six annexes to the directive.

This directive provides the same procedure for adjusting the requirements of the annexes to technical progress as laid down in Article 13 of Directive 70/156/EEC, to which Article 5 of Directive 70/220/EEC refers.

Later directives in the same field

4. The procedure for adapting Directive 70/220/EEC to technical progress was first utilised in 1974 when the limit values for

¹OJ L 76, 6 April 1970, page 1

carbon monoxide and hydrocarbon emissions were reduced in accordance with the requirements set out in Annexes I to V of Directive 74/290/EEC,¹ adopted by the Council following an unfavourable opinion by the management committee. Technical progress had by 1976 enabled the Commission to propose limit values in respect of emissions of nitrogen oxide as well as for carbon monoxide and unburnt hydrocarbons; the Committee gave a favourable opinion on this Commission proposal which then became Commission Directive 77/102/EEC.² Finally, in 1978, following a favourable opinion of the Committee, the Commission again reduced the maximum permitted levels for emissions of each of these pollutant gases by adopting Commission Directive 78/665/EEC.³

5. The present proposal seeks to amend once again the limit values for emissions of the three gases, providing for a reduction of 23% in the case of carbon monoxide, and of between 20 and 30%, by weight, in the combined unburnt hydrocarbons and nitrogen oxide emissions. This would result, according to the automobile manufacturers' associations, in an increase in fuel consumption of the order of 5%. For its part the Commission argues that any eventual such increase would be more than covered by the reductions which would result from the fulfilment of voluntary undertakings already given by manufacturers at the national level.

6. The other major amendment proposed, which brings the proposal outside the scope of the management committee procedure, is the re-definition of the term "vehicle" to be found in Article 1 to Directive 70/220/EEC to include vehicles powered by "compression ignition" (i.e. diesel) engines.

Comments on the proposal

7. The proposed directive is expressed as one "amending Council Directive 70/220/EEC"; closer examination reveals, however, that the adoption of the proposal as it stands would to a very large extent replace the earlier directive by a new set of provisions,

¹OJ L 159, 15 June 1974, page 61

²OJ L 32, 3 February 1977, page 32

³OJ L 223, 14 August 1978, page 48.

both as regards the technical annexes and the operative part of the directive.

Directive 70/220/EEC

Proposal

Article 1	Would be <u>replaced</u> by Article 1(1) of the proposal
Article 2	Would be <u>replaced</u> by Article 2 of the proposal
Article 3	Revoked on entry into force of Directive 70/156/EEC on the 10 August 1971
Article 4	(Reference to Item 1.1 of Annex I would no longer be valid)
Article 5	Would remain
Article 6	Would be <u>replaced</u> by Article 3 of the proposal
Article 7	Would be <u>replaced</u> by Article 4 of the proposal
Annexes I to VII inclusive	Would be <u>replaced</u> by Annexes I to VII of the proposal (Article 1(2))

8. Although of Directive 70/220/EEC only Article 5, which in turn refers to Article 13 of Directive 70/156/EEC, remains in its original form, the Commission proposes maintaining Directive 70/220/EEC in force. Thus in order to ascertain the precise state of Community law regarding measures relating to the approximation of the laws of the Member State in this area, following the adoption of the present proposal, it will be necessary to search in no less than four Council Directives, two Commission Directives and the 1972 Act of Accession of the United Kingdom, Ireland and Denmark, albeit that the vast majority of the provisions of these acts, except the last-mentioned, are out of date.

9. Almost a decade ago the Commission proposed the establishment of a procedure for the consolidation of Community legislation which had been amended on a number of occasions.¹ On the basis of a report drawn up on behalf of the Legal Affairs Committee by Mr MEMMEL (Doc. 46/74) the European Parliament supported this proposal while regretting that, under the procedure suggested, the earlier texts would remain in force.² For its part, the Council too appears to have had some doubts as to the effect such a consolidation procedure would have on legal certainty as regards the Community legislation thus consolidated; in the end the Council adopted a resolution³ "concerning consolidation of its Acts", taking the view that "a real legislation consolidation involving the repeal of earlier acts for reasons of legal security" was preferable to the procedure the Commission had proposed.

10. In the perspective of the favourable view taken by both the Parliament and the Council on what amounts to a codification of all the Community law on a particular subject in a single text with the repeal of the earlier measures, the Commission should propose the repeal of Directive 70/220/EEC and the three directives which were adopted to adapt it to technical progress. The Legal Affairs Committee therefore recommends to the committee responsible that the title of the proposal be modified to read:

"Proposal for a Council Directive repealing Directives 70/220/EEC, 74/290/EEC, 77/107/EEC and 78/665/EEC and providing for the approximation of the laws of the Member States relating to measures to be taken against air pollution by gases from positive-ignition and compression-ignition engines of motor vehicles".

¹OJ C 99, 20 November 1973, page 7

²OJ C 55, 13 May 1974, page 28

³OJ C 20, 28 January 1975, page 1

Any other modifications to the proposal which this change in the title would entail should, of course, be left to the discretion of the Commission of the European Communities.

Framework Directives

11. This proposal raises another matter of more general importance. Had the Commission not felt the need to include vehicles with diesel engines within the definition of "vehicle" given in Article 1 of Directive 70/220/EEC, it is more than likely that this proposal would not have been transmitted to Parliament for its opinion; the amendments to the technical annexes proposed could have been considered to constitute "adaptation to technical progress" as earlier reductions in limit values for emissions of the gases in question had been considered.

12. As far back as 1969, the European Parliament expressed its disquiet in this regard, when giving its opinion on the proposal for a directive relating to type-approval which later became Directive 70/156/EEC. Though approving a modified form of the management committee procedure eventually adopted, Parliament added an important proviso to the effect that when a directive has been voted by Parliament, any amendments which go beyond the limits of implementing provisions should be submitted to Parliament by the Commission before being forwarded to the Council.¹

This modest safeguard proposed by the European Parliament was not taken up by the Council when it adopted Directive 70/156/EEC some months later, though the Court of Justice showed its willingness to examine whether measures laid down in an implementing regulation went beyond the limits of the implementation of the principles of the basic directive in evaluating the validity of one such implementing regulation (Köster Case 1970 ECR 1161, at 1171).

13. The present proposal illustrates the dangers to the institutional balance of the European Communities of the

¹OJ C 160, 18 December 1969, page 9.

management committee procedure in general and in particular to the consultation procedure which "allows the Parliament to play an actual part in the legislative process of the Community".¹ There can be little doubt that car prices and fuel costs are topics of considerable general importance; where adaptations to technical progress can effect either of these factors to a considerable degree, the management committee procedure currently in force seems scarcely appropriate. It is difficult to justify the vesting of responsibilities in such an important area in such a shadowy body as the advisory committee, which has met less than two dozen times in the twelve years since its foundation, and whose deliberations and conclusions are not available to the general public.

14. If, of their nature, reductions in limit values could in some cases be considered mere adaptations to technical progress, the amendments currently proposed are of such an order and would have such effects that the European Parliament must be permitted to bring its political judgement to bear on those proposals, especially where there could be a doubt as to whether the measures respect the criteria of the Court of Justice in the Köster case or not. Furthermore, the rather fortuitous circumstance which resulted in the European Parliament's being consulted on this proposal strongly indicates the necessity for Parliament to be informed in good time of all such proposals for implementing legislation in this area, in order that it may decide whether or not it should be formally consulted.² This would go some way at least towards ensuring the proper recognition of the Commission's ultimate responsibility to the European Parliament and respect for "the fundamental democratic principle that the peoples should take part in the exercise of power through the intermediary of a representative assembly".¹

¹ S.A. Roquette Frères 1980 ECR 3333 at 3360, paragraph 33.

² Where the European Parliament decides not to give an opinion, the management committee procedure laid down in Article 5 of Directive 70/220/EEC would still apply; references to this provision in paragraph 16 below should be construed accordingly.

15. In order to maintain institutional balance, the Legal Affairs Committee recommends to the committee responsible the inclusion of a new procedure for the adaptation to technical progress of directives in this area, to replace that originally laid down by Directive 70/220/EEC and Directive 70/156/EEC, adopted despite the European Parliament's reservations (see paragraph b of conclusions). It is understood that where measures proposed go beyond mere implementing measures the Commission will be obliged to propose such measures under Article 100 of the EEC Treaty, or whatever other article is appropriate, thereby ensuring consultation of the Parliament should the treaty thus provide.

16. Conclusions

a. Amend the title of the proposal as follows:

"Proposal for a Council Directive repealing Directives 70/220/EEC, 74/290/EEC, 77/107/EEC and 78/665/EEC and providing for the approximation of the laws of the Member States relating to measures to be taken against air pollution by gases from positive-ignition and compression-ignition engines of motor vehicles"

and amend the body of the proposed directive to take account of this change.

b. Insert the following new Article 2 bis:

- "i) Where amendments to the annexes of this directive are necessary to take account of technical progress, the Commission shall transmit such proposed amendments to the European Parliament.
- ii) Where the European Parliament wishes to deliver an opinion on such proposed amendments, it shall notify the Commission to that effect not later than three months after receipt of the proposed amendments. The opinion shall be delivered within three months of such notification or after two part-sessions - whichever period is the longer.

- (iii) Where the European Parliament does not notify the Commission within the time limit laid down in paragraph (ii) that it wishes to deliver an opinion on the amendments, or has not delivered its opinion within the second time limit laid down in paragraph (ii), the proposed amendments shall be referred to the committee provided for in Article 5. The deadline for Parliament's opinion may, in special cases, be extended with the Commission's assent.
 - (iv) Where the European Parliament delivers an opinion on the amendments the Commission shall immediately submit
 - (a) where Parliament approves its amendments, these amendments,
 - (b) where Parliament has proposed amendments of its own which the Commission has endorsed, these new amendments,
 - (c) where it does not wish to follow Parliament's opinion, its own amendments and Parliament's opinion,to the Council for a decision. The Council shall act by qualified majority.
 - (v) If the Council has not acted within three months of the proposals being submitted to it, the proposed measures shall be adopted by the Commission.
- c. Article 5 of Directive 70/220/EEC shall be brought into line with the new procedure laid down in Article 2bis.

OPINION OF THE COMMITTEE ON TRANSPORT

Letter from the Chairman of the Committee to Mr COLLINS, Chairman of the Committee on the Environment, Public Health and Consumer Protection

Strasbourg, 12 October 1982

Dear Mr Collins,

At its meeting of 4 November 1982¹, the Committee on Transport considered the proposal from the Commission to the Council for a directive amending Council Directive No. 70/220/EEC on the approximation of the laws of the Member States relating to measures to be taken against air pollution by gases from positive-ignition engines of motor vehicles (Doc. 1-192/82).

The Committee on Transport has always supported policies and transport systems which cause as little damage as possible to the environment and therefore welcomes this initiative by the Commission designed to reduce further emissions of polluting substances from positive-ignition engines in densely populated areas of the Community.

Although this need to improve positive-ignition and carburettor systems will involve a 3% rise in construction costs and an increase of up to 5% in petrol consumption, the contacts which the draftsman has made with manufacturers' associations have revealed that industry might agree to the proposed directive. Nevertheless, the manufacturers have informed the draftsman that in their opinion a study on atmospheric pollution might also deal with such aspects as traffic density control and pollution from sources other than motor vehicles.

Please consider this letter as the opinion of the Committee on Transport on the abovementioned draft proposal.

Yours sincerely,

A. BUTTAFUOCO

Draftsman

Present: Mr Seefeld, chairman; Dame Shelagh Roberts and Mr Carossino, vice-chairman; Mr Buttafuoco, draftsman; Mr Albers, Mr Cardia, Mr Gatto (deputizing for Mr Key), Mr Junot, Mr Klinkenborg, Mr Modiano and Mr Veronesi (deputizing for Mr Martin).

