

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 24 November 1975

on the approximation of the laws of the Member States relating to the sulphur content of certain liquid fuels

(75/716/EEC)

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;

Having regard to the Opinion of the European Parliament⁽¹⁾;

Having regard to the Opinion of the Economic and Social Committee⁽²⁾;

Whereas the laws, regulations or administrative provisions in force in the Member States lay down limits with respect to the sulphur content of liquid fuels; whereas these provisions differ from one Member State to another;

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

Whereas certain Member States have notified the Commission of projects to limit and progressively reduce the sulphur content of fuels so as to achieve a reduction in sulphur dioxide emissions;

Whereas, in view of the considerable effect of the sulphur content of some liquid fuels on public health and the environment and with account being taken of the aforementioned projects, the sulphur content of gas oils must be progressively and significantly reduced at Community level;

Whereas this Directive is a first step towards reducing the sulphur content of liquid fuels and applies to gas oils only;

Whereas, to take account of the technical and economic consequences of reducing and limiting the sulphur content of gas oils and the local circumstances prevailing in the Member States, it will be necessary to define as from 1 October 1976 two types of gas oil, one for general use and the other for use restricted to zones which may be defined by the Member States;

Whereas a simplified procedure should be set up for revising the sulphur content for the two types of gas oil laid down as from 1980 in order to take account of any appreciable developments over the next few years in environmental requirements or desulphurization technology, or of substantial changes in the economic situation in the Community as regards the supply of crude oil; whereas, however, such revision could take place only before 1 October 1977 as the industry must know several years in advance the sulphur content which shall apply in order to draw up its programmes for desulphurization plant;

⁽¹⁾ OJ No C 76, 3. 7. 1974, p. 46.

⁽²⁾ OJ No C 16, 23. 1. 1975, p. 6.

Whereas a sudden change in crude oil supplies leading to an increase in its average sulphur content may, in view of the 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 second stage of the programme for reducing the sulphur content of gas oil raises particular technical and economic problems for Ireland; whereas an exemption for Ireland of limited validity ought not to have a depressing effect on trade in gas oil, since at the present time the refinery installations in Ireland do not cover more than part of its internal needs for gas oil and any exports by Ireland to another Member State in the future must comply with the provisions of the Directive applicable in that Member State; whereas a five-year exemption should be granted to Ireland before it passes on to the second stage;

Whereas checks should be carried out to ascertain the sulphur content of gas oils placed on the market; whereas a uniform method should be adopted for the purpose,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. For the purposes of this Directive:

(a) *gas oil*:

shall mean any petroleum product falling under subheading 27.10 C I of the Common Customs Tariff (1 January 1974 edition) or any petroleum product which, by reason of its distillation limits, falls into the category of middle distillates intended for use as fuel and of which at least 85 % by volume, including distillation losses, distills at 350° C;

(b) *type A gas oil*:

shall mean any low sulphur gas oil not subject to restrictions on use in the Member States;

(c) *type B gas oil*:

shall mean any gas oil intended for use in zones:

- where ground-level concentrations of atmospheric sulphur dioxide pollution are sufficiently low, or
- where gas oil accounts for an insignificant proportion of atmospheric sulphur dioxide pollution.

2. Paragraph 1 shall not apply to gas oil:

- used in power stations,
- used by shipping,
- contained in the fuel tanks of inland waterway vessels or of motor vehicles travelling from one zone to another or crossing a frontier between a non-member state and a Member State.

Article 2

1. Member States shall take all necessary steps to ensure that:

- type A gas oil can be marketed in the Community only if its sulphur compound content, expressed in sulphur, does not exceed 0.5 % by weight as from 1 October 1976 and 0.3 % by weight as from 1 October 1980,
- type B gas oil can be marketed in the Community only if its sulphur compound content, expressed in sulphur, does not exceed 0.8 % by weight as from 1 October 1976 and 0.5 % by weight as from 1 October 1980.

2. Should environmental requirements or the state of desulphurizing technology change appreciably or should the economic situation in the Community as regards the supply of crude oil change substantially, the Commission may, on its own initiative or at the request of a Member State, propose amendments to the sulphur content indicated in paragraph 1 for the period beginning 1 October 1980. The Council may decide on such amendments, by a qualified majority, not later than 1 October 1977.

3. If, because of a sudden change in crude oil supplies, changes should occur in the sulphur content of the oil such as to jeopardize supplies to consumers in view of the shortage of available desulphurization capacity, a Member State may allow onto its territory gas oils which do not conform to the specifications laid down in paragraph 1. It shall forthwith notify the Commission, which shall, after consulting the other Member States decide within three months on the duration and details of the derogation.

4. The application of paragraph 1 for the second stage of the programme for reducing the sulphur content in gas oil may be deferred until 1 October 1985 by the Government of Ireland.

Article 3

The Member States may implement the provisions of Article 2 (1) more rapidly than is provided for therein.

Article 4

As from the dates of application laid down in Article 2, due account being taken of Article 3, the Member States may not prohibit, restrict or impede the marketing of gas oils, on the grounds of sulphur content, provided they comply with the requirements of this Directive.

Article 5

Member States shall determine the zones in which the use of type B gas oil is permitted. They shall inform the other Member States and the Commission of their decisions and of their reasons for taking them.

Article 6

The Commission shall monitor the effects of applying this Directive, with particular reference to Articles 2 and 5 and will, as appropriate, depending on new information available on atmospheric sulphur dioxide pollution levels recorded and progress towards determining Community air quality objectives, draw up suitable proposals not later than 1 October 1980.

Article 7

1. Member States shall take the necessary measures to check by sampling the sulphur content of gas oils which are marketed.
2. The reference method adopted for determining the sulphur content of gas oils which are marketed is defined by European Standard EN 41, (first edition November 1975).

Pending the entry into force of European Standard EN 41, the checks and statistical interpretation of the results of these checks will be made according to the standard in use in the country in whose territory the gas oils are marketed.

Failing a national standard, the statistical interpretation of the results of the checks made to determine the sulphur content of the gas oils marketed shall be made according to standard BS 4306/1968 'Application of precision data to specifications for petroleum products'.

Article 8

1. Member States shall implement the necessary laws, regulations and administrative provisions for compliance with this Directive within nine months of its notification and shall forthwith inform the Commission thereof.
2. Member States shall ensure that the text of national legislation which they adopt in the field covered by this Directive is communicated to the Commission.

Article 9

This Directive is addressed to the Member States.

Done at Brussels, 24 November 1975.

For the Council

The President

B. VISENTINI