

COMMON POSITION (EC) No 37/2002

adopted by the Council on 15 April 2002

with a view to adopting Directive 2002/.../EC of the European Parliament and of the Council of ... amending Directive 98/70/EC relating to the quality of petrol and diesel fuels

(2002/C 145 E/04)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

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

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

After consultation of the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽³⁾,

Whereas:

(1) Directive 98/70/EC ⁽⁴⁾ lays down the environmental specifications for market fuels.

(2) Article 95 of the Treaty provides that Commission proposals having as their object the establishment and functioning of the internal market and concerning, *inter alia*, health and environmental protection, will take as a base a high level of protection and that the European Parliament and the Council will also seek to achieve this objective.

(3) A revision of Directive 98/70/EC is foreseen in order to meet the requirements of Community air quality standards and related objectives and in order to incorporate additional specifications to complement those mandatory specifications already laid down in Annex III and Annex IV to the Directive.

⁽¹⁾ OJ C 213 E, 31.7.2001, p. 255.

⁽²⁾ OJ C 36, 8.2.2002, p. 115.

⁽³⁾ Opinion of the European Parliament of 29 November 2001 (not yet published in the Official Journal), Council Common Position of 15 April 2002 and Decision of the European Parliament of ... (not yet published in the Official Journal).

⁽⁴⁾ OJ L 350, 28.12.1998, p. 58. Directive as last amended by Commission Directive 2000/71/EC (OJ L 287, 14.11.2000, p. 46).

(4) A reduction of the sulphur content of petrol and diesel fuels has been identified as a means of contributing to the achievement of those objectives.

(5) The adverse effect of sulphur in petrol and diesel fuels on the effectiveness of catalytic exhaust gas after-treatment technologies is well established for on-road vehicles and increasingly in the case of non-road mobile machinery.

(6) Road vehicles are increasingly reliant on catalytic after-treatment devices to attain the emissions limits laid down in Council Directive 70/220/EEC of 20 March 1970 on the approximation of the laws of the Member States on measures to be taken against air pollution by emissions from motor vehicles ⁽⁵⁾ and Council Directive 88/77/EEC of 3 December 1987 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 compression ignition engines for use in vehicles, and the emission of gaseous pollutants from positive ignition engines fuelled with natural gas or liquefied petroleum gas for use in vehicles ⁽⁶⁾. Accordingly a reduction in the sulphur content of petrol and diesel fuels is likely to have a larger impact on exhaust emissions than changes to the other fuel parameters.

(7) The introduction of fuels with a maximum sulphur content of 10 mg/kg will improve the fuel efficiency attainable with new, emerging vehicle technologies and should be examined in the case of non-road mobile machinery and should lead to significant reductions in emissions of conventional air pollutants when used in existing vehicles. These benefits will compensate for the increased emissions of CO₂ associated with the production of lower sulphur petrol and diesel fuels.

(8) It is therefore appropriate to lay down measures ensuring the introduction and availability of fuels with a maximum sulphur content of 10 mg/kg. In this regard fiscal incentives have been shown to be effective in promoting the early introduction of higher quality fuels according to national needs and priorities and to shorten the transition period where two different qualities are distributed in the market.

⁽⁵⁾ OJ L 76, 6.4.1970, p. 1. Directive as last amended by Directive 2001/100/EC of the European Parliament and of the Council (OJ L 16, 18.1.2002, p. 32).

⁽⁶⁾ OJ L 36, 9.2.1988, p. 33. Directive as last amended by Commission Directive 2001/27/EC (OJ L 107, 18.4.2001, p. 10).

- (9) The widespread availability of fuels with a maximum sulphur content of 10 mg/kg will provide a basis for the automobile manufacturers to make significant additional progress towards improving the fuel efficiency of new vehicles. The potential contribution of fuels with a maximum sulphur content of 10 mg/kg towards the attainment of the Community's target of 120 g/km for the average CO₂ emissions of the new car fleet will be assessed when the current environmental commitments with the automobile manufacturers are reviewed in 2003.
- (10) It is necessary to ensure that sufficient quantities of petrol and diesel fuels with a maximum sulphur content of 10 mg/kg are available from 1 January 2005 on an appropriate geographic basis in order to permit the free circulation of new vehicles requiring these fuels whilst ensuring that CO₂ emissions reductions from new vehicles outweigh those additional emissions associated with the production of these fuels.
- (11) The complete penetration of petrol and diesel fuels with a maximum sulphur content of 10 mg/kg should be provided for from 1 January 2009 in order to allow the fuel manufacturing industry enough time to make the necessary investments to adapt its production plans. In addition, the full introduction of petrol and diesel fuels with a maximum sulphur content of 10 mg/kg from 1 January 2009 will reduce emissions of conventional pollutants from the existing fleet of vehicles leading to an improvement in air quality, whilst ensuring that there is no overall increase in greenhouse gas emissions. In this context it will be necessary to confirm this date in the case of diesel fuels no later than 31 December 2005.
- (12) In order to protect human health and/or the environment in specific agglomerations or in specific ecologically or environmentally sensitive areas with special pollution problems, Member States should be permitted, subject to a procedure established in this Directive, to require that fuels may be marketed only if they comply with more stringent environmental specifications, related to pollutants of concern, than established under this Directive. This procedure is a derogation from the information procedure laid down in Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on information society services⁽¹⁾.
- (13) The emissions from engines installed in non-road mobile machinery and agricultural and forestry tractors must comply with the limits stipulated in Directive 97/68/EC of the European Parliament and of the Council of
- 16 December 1997 on the approximation of the laws of the Member States relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery⁽²⁾ and in Directive 2000/25/EC of the European Parliament and of the Council of 22 May 2000 on action to be taken against the emission of gaseous and particulate pollutants by engines intended to power agricultural or forestry tractors and amending Council Directive 74/150/EEC⁽³⁾. Attainment of these emissions limits will become increasingly dependent on the quality of the gas oils used by these engines and so it is important to include a definition for such fuels in Directive 98/70/EC.
- (14) It is appropriate to provide for a uniform system of fuel quality monitoring or national systems that ensure results of equivalent confidence and for systems of reporting in order to assess compliance with the mandated environmental fuel quality specifications.
- (15) A procedure should be laid down for updating the measurement methods used to ensure compliance with the mandated fuel quality specifications.
- (16) The measures necessary for the implementation of Directive 98/70/EC should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down procedures for the exercise of implementing powers conferred upon the Commission⁽⁴⁾.
- (17) Provision should be made for a review of the provisions in Directive 98/70/EC in order to take account of new Community air quality legislation and related environmental objectives, such as the need to encourage alternative fuels, including biofuels, the development of new pollution abatement technologies and the impact of metallic additives and other relevant issues on their performance and to confirm, or otherwise, the date for full introduction of diesel fuels with a maximum sulphur content of 10 mg/kg in order to ensure that there is no overall increase in emissions of greenhouse gases.
- (18) A comprehensive review of alternative fuels, including bio-fuels, should be undertaken, including the discussion of the need for specific legislation.

⁽¹⁾ OJ L 204, 21.7.1998, p. 37. Directive as amended by Directive 98/48/EC (OJ L 217, 5.8.1998, p. 18).

⁽²⁾ OJ L 59, 27.2.1998, p. 1. Directive as amended by Commission Directive 2001/63/EC (OJ L 227, 23.8.2001, p. 41).

⁽³⁾ OJ L 173, 12.7.2000, p. 1.

⁽⁴⁾ OJ L 184, 17.7.1999, p. 23.

(19) The Member States should lay down rules on penalties applicable to infringements of the provisions of Directive 98/70/EC and ensure that they are implemented.

(20) Directive 98/70/EC should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 98/70/EC is hereby amended as follows:

1. Article 2 shall be replaced by the following:

Article 2

Definitions

For the purposes of this Directive:

1. "petrol" means any volatile mineral oil intended for the operation of internal combustion positive-ignition engines for the propulsion of vehicles and falling within CN codes 2710 11 41, 2710 11 45, 2710 11 49, 2710 11 51 and 2710 11 59 (*);
2. "diesel fuels" means gas oils falling within CN codes 2710 19 41 (*) and used for self-propelling vehicles as referred to in Directive 70/220/EEC and Directive 88/77/EEC;
3. "gas oils intended for use by non-road mobile machinery and agricultural and forestry tractors" means any petroleum-derived liquid, falling within CN codes 2710 19 41 and 2710 19 45 (*), intended for use in engines referred to in Directives 97/68/EC (**), and 2000/25/EC (***);
4. "Outermost Regions" means France with regard to the French Overseas Departments, Portugal with regard to the Azores and Madeira and Spain with regard to the Canary Islands.

For Member States with arctic or severe winter conditions the maximum distillation point of 65 % at 250 °C for diesel fuels and gas oils may be replaced with a maximum distillation point of 10 % (vol/vol) at 180 °C.

(*) The numbering of these CN codes as specified in the Common Customs Tariff as amended by Commission Regulation (EC) No 2031/2001 (OJ L 279, 23.10.2001, p. 1).

(**) OJ L 59, 27.2.1998, p. 1. Directive as amended by Commission Directive 2001/63/EC (OJ L 227, 23.8.2001, p. 41).

(***) OJ L 173, 12.7.2000, p. 1.'

2. In Article 3(2) the following subparagraphs shall be added:

'(d) Without prejudice to the provisions of subparagraph (c), Member States shall take all measures necessary to ensure that in due time and no later than 1 January 2005, unleaded petrol with a maximum sulphur content of 10 mg/kg is marketed within their territories. Member States shall ensure that such unleaded petrol is available on an appropriate geographic basis and complies in all other respects with the specifications in Annex III.

However, Member States may, for the Outermost Regions, make specific provisions for the introduction of petrol of a maximum sulphur content of 10 mg/kg. Member States making use of this provision will inform the Commission accordingly.

(e) By no later than 1 January 2009, Member States shall ensure that unleaded petrol can be marketed in their territory only if it complies with the environmental specification set out in Annex III except for the sulphur content which shall be a maximum of 10 mg/kg.'

3. In Article 4:

(a) the following subparagraphs shall be added to paragraph 1:

'(d) Without prejudice to the provisions of subparagraph (c), Member States shall take all measures necessary to ensure that in due time and no later than 1 January 2005, diesel fuel with a maximum sulphur content of 10 mg/kg is marketed within their territories. Member States shall ensure that such diesel fuel is available on an appropriate geographic basis and complies in all other respects with the specifications in Annex IV.

However, Member States may, for the Outermost Regions, make specific provisions for the introduction of diesel fuel of a maximum sulphur content of 10 mg/kg. Member States making use of this provision will inform the Commission accordingly.

(e) By no later than 1 January 2009, Member States shall ensure, subject to the provisions of Article 9(1)(a), that diesel fuel can be marketed in their territory only if it complies with the environmental specification set out in Annex IV except for the sulphur content which shall be a maximum of 10 mg/kg.;

(b) The following new paragraph shall be added:

'5. Member States shall ensure that gas oils intended for use by non-road mobile machinery and agricultural and forestry tractors marketed within their territory contain less than 2 000 mg/kg of sulphur. By 1 January 2008 at the latest the maximum permissible sulphur content of gas oils intended for use by non-road mobile machinery and agricultural and forestry tractors shall be 1 000 mg/kg. However, Member States may require a lower limit or the same sulphur content for diesel fuels stipulated in this Directive.'

4. In Article 6:

(a) paragraph 1 shall be replaced by the following:

'1. By way of derogation from Articles 3, 4 and 5 and in accordance with Article 95(10) of the Treaty, a Member State may take measures to require that in specific areas, within its territory, fuels may only be marketed if they comply with more stringent environmental specifications than those provided for in this Directive for all or part of the vehicle fleet with a view to protecting the health of the population in a specific agglomeration or the environment in a specific ecologically or environmentally sensitive area in that Member State, if atmospheric or ground water pollution constitutes or may reasonably be expected to constitute a serious and recurrent problem for human health or the environment.'

(b) paragraph 3 shall be replaced by the following:

'3. The Member States involved shall provide the Commission with relevant environmental data for the agglomeration or area in question as well as the predicted effects on the environment of the measures proposed.'

(c) paragraphs 7 and 8 shall be deleted.

5. Article 8 shall be replaced by the following:

'Article 8

Monitoring compliance and reporting

1. Member States shall monitor compliance with the requirements of Articles 3 and 4, in respect of petrol and diesel fuels, on the basis of the analytical methods referred to in European Standards EN 228:1999 and EN 590:1999 respectively.

2. Member States shall establish a fuel quality monitoring system in accordance with the requirements of the

relevant European Standard. The use of an alternative fuel quality monitoring system may be permitted provided that such a system ensures results of equivalent confidence.

3. Each year by 30 June the Member States shall submit a report of national fuel quality data for the preceding calendar year. The first report shall be submitted by 30 June 2002. From 1 January 2004 the format for this report shall be consistent with that described in the relevant European standard. In addition, Member States shall report the total volumes of petrol and diesel fuels marketed in their territories and the volumes of unleaded petrol and diesel fuels marketed with a maximum sulphur content of 10 mg/kg. Furthermore, the Member States shall report annually on the availability on an appropriate geographic basis of petrol and diesel fuels with a maximum sulphur content of 10 mg/kg that are marketed within their territory.

4. The Commission shall ensure that the information submitted pursuant to paragraph 3 is promptly made available by appropriate means. The Commission shall publish annually, and for the first time by 31 December 2003, a report on actual fuel quality in the different Member States and geographic coverage of fuels with a maximum sulphur content of 10 mg/kg, aiming to provide an overview of the fuels quality data in the different Member States.'

6. Article 9 shall be replaced by the following:

'Article 9

Review process

1. By 31 December 2005 at the latest the Commission shall review the fuel specifications of Annexes III and IV with the exception of sulphur content and propose amendments, if appropriate, in keeping with current and future requirements of Community vehicle emission and air quality legislation and related objectives. In particular, the Commission shall consider:

(a) the necessity of any change to the end date for the full introduction of diesel fuel, with a maximum sulphur content of 10 mg/kg, in order to ensure that there is no overall increase in greenhouse gas emissions. This analysis shall consider developments in refinery processing technologies, expected fuel economy improvements of vehicles and the rate that new fuel-efficient technologies are introduced into the vehicle fleet;

(b) the implications of new Community legislation setting air quality standards for substances such as polycyclic aromatic hydrocarbons;

(c) the outcome of the review described in Article 10 of Council Directive 1999/30/EC of 22 April 1999 relating to limit values for sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead in ambient air (*);

(d) the outcome of the review of the various commitments by the Japanese (**), Korean (***) and European (****) automobile manufacturers to reduce the fuel consumption and carbon dioxide emissions of new passenger cars in the light of the fuel quality changes introduced by this Directive and progress towards the Community target of 120 g/km CO₂ emissions for the average vehicle;

(e) the outcome of the review required by Article 7 of Directive 1999/96/EC of the European Parliament and of the Council of 13 December 1999 on the approximation of the laws of the Member States relating to measures to be taken against the emission of gaseous and particulate pollutants from compression ignition engines for use in vehicles, and the emission of gaseous pollutants from positive ignition engines fuelled with natural gas or liquefied petroleum gas for use in vehicles and amending Council Directive 88/77/EEC (****) and the confirmation of the mandatory NO_x emission standard for heavy duty engines;

(f) the effective functioning of new pollution abatement technologies and the impact of metallic additives and other relevant issues on their performance and developments affecting international fuel markets;

(g) the need to change other parameters in the fuel specifications as well as the need to encourage the introduction of alternative fuels, including biofuels.

2. When considering the next stage of emission standards for compression ignition engines in non-road applications, the Commission shall in parallel establish the required fuel quality. In so doing, the Commission shall take into account the importance of the emissions from this sector, the overall environmental benefits, the implications in the Member States regarding fuel distribution and the costs and benefits of a more restrictive sulphur level than is currently required for fuel used in compression ignition engines in non-road applications, including the same maximum sulphur level specified in this Directive for road vehicles.

3. In addition to the provisions of paragraph 1 the Commission may, *inter alia*, bring forward:

— proposals taking into consideration the particular situation of captive fleets and the need to propose levels of specifications for the special fuels they use,

— proposals setting levels of specifications applicable to liquid petroleum gas, natural gas and biofuels.

(*) OJ L 163, 29.6.1999, p. 41. Directive as amended by Commission Decision 2001/744/EC (OJ L 278, 23.10.2001, p. 35).

(**) OJ L 100, 20.4.2000, p. 57.

(***) OJ L 100, 20.4.2000, p. 55.

(****) OJ L 40, 13.2.1999, p. 49.

(*****) OJ L 44, 16.2.2000, p. 1.'

7. The following Article shall be inserted:

'Article 9a

Penalties

Member States shall determine the penalties applicable to breaches of the national provisions adopted pursuant to this Directive. The penalties determined must be effective, proportionate and dissuasive.'

8. The first subparagraph of Article 10 shall be replaced by the following:

'The measurement methods to be applied in relation to the parameters specified in Annexes I and III shall be those analytical methods set out in European Standard EN 228:1999. The measurement methods to be applied in relation to the parameters specified in Annexes II and IV shall be those analytical methods set out in European Standard EN 590:1999. Member States may adopt the analytical methods specified in replacement EN 228:1999 or EN 590:1999 standards, as appropriate if they can be shown to give at least the same accuracy and at least the same level of precision as the analytical methods they replace. In the event that adaptation of the permitted analytical methods to technical progress is necessary, amendments may be adopted by the Commission in accordance with the procedure referred to in Article 11(2).'

9. Article 11 shall be replaced by the following:

'Article 11

Committee procedure

1. The Commission shall be assisted by the Committee established in accordance with Article 12 of Directive 96/62/EC (*).

2. Where reference is made to this paragraph Articles 5 and 7 of Council Decision 1999/468/EC of 28 June 1999 laying down procedures for the exercise of implementing powers conferred upon the Commission (**) shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its rules of procedure.

(*) OJ L 296, 21.11.1996, p. 55.

(**) OJ L 184, 17.7.1999, p. 23.'

10. Annexes I to IV are replaced by the text in the Annex to this Directive.

Article 2

Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive by 30 June 2003 at the latest. They shall forthwith inform the Commission thereof.

Member States shall apply these measures from 1 January 2004.

When Member States adopt these measures, they shall contain a reference to this Directive or be accompanied by such a

reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

Article 3

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

Article 4

This Directive is addressed to the Member States.

Done at ...

For the European Parliament
The President

For the Council
The President

ANNEX

'ANNEX I

ENVIRONMENTAL SPECIFICATIONS FOR MARKET FUELS TO BE USED FOR VEHICLES EQUIPPED WITH POSITIVE-IGNITION ENGINES

Type: **Petrol**

Parameter ⁽¹⁾	Unit	Limits ⁽²⁾	
		Minimum	Maximum
Research octane number		95 ⁽³⁾	—
Motor octane number		85	—
Vapour pressure, summer period ⁽⁴⁾	kPa	—	60,0 ⁽⁵⁾
Distillation:			—
— percentage evaporated at 100 °C	% v/v	46,0	
— percentage evaporated at 150 °C	% v/v	75,0	—
Hydrocarbon analysis:			
— olefins	% v/v	—	18,0 ⁽⁶⁾
— aromatics	% v/v	—	42,0
— benzene	% v/v	—	1,0
Oxygen content	% m/m	—	2,7
Oxygenates			
— methanol (stabilising agents must be added)	% v/v	—	3
— ethanol (stabilising agents may be necessary)	% v/v	—	5
— iso-propyl alcohol	% v/v	—	10
— tert-butyl alcohol	% v/v	—	7
— iso-butyl alcohol	% v/v	—	10
— ethers containing five or more carbon atoms per molecule	% v/v	—	15
— other oxygenates ⁽⁷⁾	% v/v	—	10
Sulphur content	mg/kg	—	150
Lead content	g/l	—	0,005

⁽¹⁾ Test methods shall be those specified in EN 228:1999. Member States may adopt the analytical method specified in replacement EN 228:1999 standard if it can be shown to give at least the same accuracy and at least the same level of precision as the analytical method it replaces.

⁽²⁾ The values quoted in the specification are "true values". In the establishment of their limit values the terms of ISO 4259 "Petroleum products — determination and application of precision data in relation to methods of test" have been applied and in fixing a minimum value, a minimum difference of 2R above zero has been taken into account (R = reproducibility). The results of individual measurements shall be interpreted on the basis of the criteria described in ISO 4259 (published in 1995).

⁽³⁾ Unleaded regular grade petrol may be marketed with a minimum motor octane number (MON) of 81 and a minimum research octane number (RON) of 91.

⁽⁴⁾ The summer period shall begin no later than 1 May and shall not end before 30 September. For Member States with arctic or severe winter conditions the summer period shall begin no later than 1 June and shall not end before 31 August.

⁽⁵⁾ For Member States with arctic or severe winter conditions the vapour pressure shall not exceed 70 kPa during the summer period.

⁽⁶⁾ Unleaded regular grade petrol may be marketed with a maximum olefin content of 21 % v/v.

⁽⁷⁾ Other mono-alcohols and ethers with a final boiling point no higher than that stated in EN 228:1999.

ANNEX II

ENVIRONMENTAL SPECIFICATIONS FOR MARKET FUELS TO BE USED FOR VEHICLES EQUIPPED WITH COMPRESSION IGNITION ENGINES

Type: **Diesel fuel**

Parameter ⁽¹⁾	Unit	Limits ⁽²⁾	
		Minimum	Maximum
Cetane number		51,0	—
Density at 15 °C	kg/m ³	—	845
Distillation:			
— 95 % (v/v) recovered at	°C	—	360
Polycyclic aromatic hydrocarbons	% m/m	—	11
Sulphur content	mg/kg	—	350

⁽¹⁾ Test methods shall be those specified in EN 590:1999. Member States may adopt the analytical method specified in replacement EN 590:1999 standard if it can be shown to give at least the same accuracy and at least the same level of precision as the analytical method it replaces.

⁽²⁾ The values quoted in the specification are "true values". In the establishment of their limit values the terms of ISO 4259 "Petroleum products — determination and application of precision data in relation to methods of test" have been applied and in fixing a minimum value, a minimum difference of 2R above zero has been taken into account (R = reproducibility). The results of individual measurements shall be interpreted on the basis of the criteria described in ISO 4259 (published in 1995).

ANNEX III

ENVIRONMENTAL SPECIFICATIONS FOR MARKET FUELS TO BE USED FOR VEHICLES EQUIPPED WITH POSITIVE-IGNITION ENGINES

Type: **Petrol**

Parameter ⁽¹⁾	Unit	Limits ⁽²⁾	
		Minimum	Maximum
Research octane number		95 ⁽³⁾	—
Motor octane number		85	—
Vapour pressure, summer period ⁽⁴⁾	kPa	—	60,0 ⁽⁵⁾
Distillation:			—
— percentage evaporated at 100 °C	% v/v	46,0	
— percentage evaporated at 150 °C	% v/v	75,0	—
Hydrocarbon analysis:			
— olefins	% v/v	—	18,0
— aromatics	% v/v	—	35,0
— benzene	% v/v	—	1,0
Oxygen content	% m/m	—	2,7
Oxygenates			
— Methanol (stabilising agents must be added)	% v/v	—	3
— Ethanol (stabilising agents may be necessary)	% v/v	—	5
— Iso-propyl alcohol	% v/v	—	10
— Tert-butyl alcohol	% v/v	—	7
— Iso-butyl alcohol	% v/v	—	10
— Ethers containing 5 or more carbon atoms per molecule	% v/v	—	15
— Other oxygenates ⁽⁶⁾	% v/v	—	10
Sulphur content	mg/kg	—	50
	mg/kg	—	10 ⁽⁷⁾
Lead content	g/l	—	0,005

⁽¹⁾ Test methods shall be those specified in EN 228:1999. Member States may adopt the analytical method specified in replacement EN 228:1999 standard if it can be shown to give at least the same accuracy and at least the same level of precision as the analytical method it replaces.

⁽²⁾ The values quoted in the specification are "true values". In the establishment of their limit values the terms of ISO 4259 "Petroleum products — determination and application of precision data in relation to methods of test" have been applied and in fixing a minimum value, a minimum difference of 2R above zero has been taken into account (R = reproducibility). The results of individual measurements shall be interpreted on the basis of the criteria described in ISO 4259 (published in 1995).

⁽³⁾ Member States may decide to continue to permit the marketing of unleaded regular grade petrol with a minimum motor octane number (MON) of 81 and a minimum research octane number (RON) of 91.

⁽⁴⁾ The summer period shall begin no later than 1 May and shall not end before 30 September. For Member States with arctic or severe winter conditions the summer period shall begin no later than 1 June and shall not end before 31 August.

⁽⁵⁾ For Member States with arctic or severe winter conditions the vapour pressure shall not exceed 70 kPa during the summer period.

⁽⁶⁾ Other mono-alcohols and ethers with a final boiling point no higher than that stated in EN 228:1999.

⁽⁷⁾ In accordance with Article 3(2), by no later than 1 January 2005 unleaded petrol with a maximum sulphur content of 10 mg/kg must be marketed and be available on an appropriate geographic basis within the territory of a Member State. By 1 January 2009 all unleaded petrol marketed in the territory of a Member State must have a maximum sulphur content of 10 mg/kg.

ANNEX IV

ENVIRONMENTAL SPECIFICATIONS FOR MARKET FUELS TO BE USED FOR VEHICLES EQUIPPED WITH COMPRESSION IGNITION ENGINES

Type: **Diesel fuel**

Parameter ⁽¹⁾	Unit	Limits ⁽²⁾	
		Minimum	Maximum
Cetane number		51,0	—
Density at 15 °C	kg/m ³	—	845
Distillation:			
— 95 % (v/v) recovered at	°C	—	360
Polycyclic aromatic hydrocarbons	% m/m	—	11
Sulphur content	mg/kg	—	50
	mg/kg	—	10 ⁽³⁾

⁽¹⁾ Test methods shall be those specified in EN 590:1999. Member States may adopt the analytical method specified in replacement EN 590:1999 standard, if it can be shown to give at least the same accuracy and at least the same level of precision as the analytical method it replaces.

⁽²⁾ The values quoted in the specification are "true values". In the establishment of their limit values the terms of ISO 4259 "Petroleum products — determination and application of precision data in relation to methods of test" have been applied and in fixing a minimum value, a minimum difference of 2R above zero has been taken into account (R = reproducibility). The results of individual measurements shall be interpreted on the basis of the criteria described in ISO 4259 (published in 1995).

⁽³⁾ In accordance with Article 4(1), by no later than 1 January 2005 diesel fuel with a maximum sulphur content of 10 mg/kg must be marketed and be available on an appropriate geographic basis within the territory of a Member State. In addition, and subject to the review in Article 9(1), by 1 January 2009 all diesel fuel marketed in the territory of a Member State must have a maximum sulphur content of 10 mg/kg.

STATEMENT OF THE COUNCIL'S REASONS

I. INTRODUCTION

1. On 11 May 2001, the Commission presented to the Council its proposal for a Directive of the European Parliament and of the Council amending Directive 98/70/EC relating to the quality of petrol and diesel fuels.

2. The European Parliament gave its opinion on 29 November 2001.

The Economic and Social Committee adopted its opinion on 18 October 2001.

3. On 15 April 2002, the Council adopted its Common Position in accordance with Article 251(2) of the Treaty.

II. OBJECTIVE

The proposal introduces the requirement to introduce petrol and diesel fuels with a maximum sulphur content of 10 mg/kg into the market place, on a balanced geographic basis by 1 January 2005, and it makes this limit compulsory by a specified end date (1 January 2011 in the proposal). This final date for diesel fuels is subject to review.

The proposal also clarifies the situation regarding the currently permissible sulphur content for diesel used in non-road mobile machinery but introduces no new provisions. It also proposes minor changes to the provisions on technical adaptation and alignment with a pending European standard on fuel quality monitoring. No changes to the non-sulphur parameters have been proposed.

III. ANALYSIS OF THE COMMON POSITION

1. General

The main issues are:

- the final date after which the maximum sulphur content of all petrol and diesel sold must be limited to 10 mg/kg: the Commission proposed 1 January 2011, Parliament proposed 1 January 2008 and the Council agreed on 1 January 2009. In relation to the availability of this fuel by 1 January 2005 the Council agreed that this should be on an 'appropriate' geographic basis, rather than 'balanced' as in the Commission proposal,
- non-road mobile machinery: the Commission did not propose changing this, Parliament suggested the same requirements should apply from 1 January 2005 and the Council have requested that the Commission come forward with proposals in relation to fuel quality for non-road mobile machinery; however, Member States may now apply more stringent standards for sulphur content if they so wish,
- more stringent environmental specifications for petrol and diesel than those set down in the directive when they are justified by local environmental conditions. The Council extended the current provision in Directive 98/70/EC, whereby a Member State may seek permission to have more stringent environmental specifications for petrol and/or diesel in specific areas within its territory for air quality reasons, to include risks to groundwater pollution.

The Commission has accepted the Common Position agreed by the Council.

2. European Parliament amendments

In its plenary vote on 29 November 2001, Parliament adopted 36 amendments to the proposal. Seventeen of these have already been incorporated (seven to the Articles and 10 to the recitals), either verbatim, in part or in spirit, into the Council's Common Position.

(a) The 19 amendments which have not been incorporated can be grouped as follows:

Fiscal incentives (*amendments 10, 19 and 27*): Parliament proposed that Member States should have an automatic right to promote the early introduction of petrol and diesel with a maximum sulphur content of 10 mg/kg through the use of fiscal incentives. This was not accepted by the Council due to incompatibility with the legal basis for this proposal and existing provisions in Community legislation.

Derogations (*amendments 20, 21, 24, 25*): Parliament proposed to delete the possibility for a Member State to seek derogation from the obligation to market petrol and diesel with a sulphur content less than 50 parts per million from 1 January 2005 for up to two years. This was not accepted.

Definition of balanced geographic basis (*amendments 42/45 and 43/46*): Parliament proposed that the Commission should identify, via a comitology procedure, criteria to determine what would constitute availability of 10 mg/kg petrol and diesel on a balanced geographic basis during the introductory phase. The Council felt that the divergence of local circumstances would mitigate against the development of such common criteria.

Non-road mobile machinery (*amendments 3, 12, 26 and 37*): Parliament proposed that diesel used in non-road mobile machinery should meet the same environmental specifications as on-road diesel from 1 January 2005. The Council did not however accept these amendments, it did invite the Commission in Article 1(5)(b) to establish the necessary specifications required for diesel when considering the next stage of emission standards for compression ignition engines used in non-road mobile machinery.

Final date (*amendments 5, 11, 15, 18, 23 and 32*): Parliament suggested advancing the final date after which all petrol and diesel sold must comply with a 10 mg/kg maximum sulphur content to 1 January 2008, eliminating the possibility for the Commission to confirm the final date in the case of diesel and providing for the possibility of derogation due to socioeconomic considerations, these amendments are not reflected in the Common Position. The Council did however agree to advance the final date to 1 January 2009 but maintained the possibility for the Commission to confirm the date for diesel no later than 31 December 2005.

(b) The 17 amendments, which Council has incorporated into its Common Position, can be grouped as follows:

Reporting (*amendments 29 and, in principle 28*): The Commission agreed to make available the information requested in the new paragraph introduced by amendment 29 (Article 8(4)); and amendment 28 makes small changes to the wording of the reporting requirement (Article 8(3)) made on Member States. Most of these changes were incorporated into the Common Position.

Dates (*amendment 30*): The earlier review date, suggested in this amendment for the full implementation of the proposal in relation to diesel fuel, of 31 December 2005 has been accepted verbatim, this fits with the Council's decision to make the end date two years earlier than proposed by the Commission.

91 RON petrol (*amendment 35*): This amendment permits the continued sale of 91 RON petrol and was included as part of the Common Position.

Review clause (*amendments 48 and, in part, 47*): The review clause (Article 9) agreed in the Common Position includes a requirement to consider the need to change other fuel parameters, and to encourage the introduction of alternative fuels, including biofuels (this covers amendment 48, in principle). The review also requires the Commission to consider the 'impact of metallic additives and other relevant issues on the performance' of abatement technologies (this covers part of amendment 47, in principle).

Strengthening voluntary agreements (*amendment 34, in principle*): The spirit of this amendment has been incorporated to Article 9(1)(d) with two minor changes to the wording.

Recitals (*amendments 1, 2, 4 (in part), 6, 7, 8, 9, 13, 16 and 44*): These amendments have been incorporated into the recitals of the Common Position, they deal with:

amendment 1: highlighting the importance of the sulphur content of fuels in both on-road vehicles and non-road mobile machinery (recital 5);

amendment 2: more accurate reference to Directive title (recital 6);

amendment 4: emphasises the effect that lower sulphur content will have on CO₂ emissions in on-road vehicles (recital 7), the part on non-road mobile machinery does not appear in the Common Position;

amendment 6: highlights role that fiscal incentives can play (recital 8);

amendment 7: stresses the need to take account of move towards petrol and diesel with a maximum sulphur content of 10 mg/kg in the review in 2003 of the voluntary agreements with the major auto manufacturers to reduce CO₂ emissions from vehicles (recital 9);

amendment 8: is in part reflected in recital 10 to the extent that it improves the text referring to the maximum sulphur content. However, that part of the amendment referring to the mandatory availability of all grades of petrol with a maximum sulphur content of 10 mg/kg is not reflected in the Common Position;

amendment 9: introduces a new recital pointing to the need to allow the continued marketing of regular unleaded petrol, this is reflected by the provision in footnote 3 of Annexes I and III;

amendment 13: is in principle reflected in recital 14 in that the fuel quality monitoring systems foreseen will achieve the same objective sought by the amendment;

amendments 16 and 44: point to the need for further evaluation of alternative fuels, bio-fuels and of the impact of a number of issues, including the use of metallic additives in relation to abatement equipment which are both reflected in recital 17.

3. Most important innovations introduced by the Council

The most important innovation, which is also a move towards Parliament's position (in *amendments 5, 11, 15, 18, 23 and 32*), is the change to the end date for full market availability of the petrol and diesel fuels with a maximum sulphur content of 10 mg/kg. The date proposed by the Commission was 1 January 2011, this has been brought forward in the Common Position to 1 January 2009 (Parliament suggested 1 January 2008). Given the earlier end date, Parliament's amendment to bring forward the review date in relation to diesel fuels, from 31 December 2006 to 31 December 2005 was incorporated into the Common Position.

The Commission's proposal made no change to the fuel requirements for non-road mobile machinery. The Council considered this issue very carefully and amended the proposal to require that the Commission come forward with a proposal in relation to fuel quality for non-road mobile machinery when considering the next stage of emission standards for compression ignition engines.

The Council also decided to extend a previous provision in Article 6 of Directive 98/70/EC, which currently allows Member States, subject to a Community control procedure, to require the marketing of fuel with more stringent environmental specifications in certain parts of a Member State for reasons of atmospheric pollution, to include reasons related to groundwater pollution.

IV. CONCLUSION

The Council considers that its Common Position takes account of the opinion of the European Parliament in first reading to a large extent. The Council's Common Position has moved the Commission's proposal towards Parliament's opinion in relation to most of the amendments which were not accepted. It represents a balanced solution for the amended Directive, which ensures the environmental benefit to be derived from the new limits while also making requirements on the industry which are practically feasible.
