

Legislation and Policy

THE NEW DIRECTIVE ON AMBIENT AIR QUALITY AND CLEANER AIR FOR EUROPE

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INTRODUCTION

The Alkali Act 1863 was a groundbreaking piece of legislation which tackled, head-on, highly damaging acidic atmospheric emissions from an early chemicals industry. It established a professional inspectorate and imposed an ambitious emission limit on atmospheric emissions of hydrochloric acid from such plants. Indeed, provided one has the political will¹ and the technical capability,² stemming the flow of noxious emissions from exhausts and tailpipes is the obvious place to start when seeking to reduce pollution. Initially, the Act achieved spectacular results; as industry increased, however, the reductions were soon cancelled out by the proliferation of new plants.³

This example neatly illustrates the shortcomings of an approach to pollution control that relies solely upon monitoring exhaust pipe emissions. Emission limits are of limited effect unless they are informed by data on the cumulative effect of emissions on the receiving media. The early emission limits placed on the alkali industry took no account of the growth of that particular industry, let alone the host of other polluting industries, many of which escaped the Alkali regime for many years.

Air quality standards focus on the cumulative effect of pollutants from all sources in the atmosphere and, in this respect, form a vital element of any strategic response to the problem of atmospheric pollution. In the UK an early example of a strategic approach to

1 Lord Derby, in the case of the Alkali Acts.

2 The convenient existence of Gossage towers, which were capable of condensing the acid emitted from alkali works.

3 For an analysis of the early years of the Alkali Inspectorate and its approach to regulation, see B. Pontin, 'Integrated pollution control in Victorian Britain: rethinking progress within the history of environmental law' (2007) 19(2) JEL 173.

air quality can be seen in the first Clean Air Act 1956,⁴ which empowered local authorities to declare smoke control areas. This approach was greatly expanded by the Environment Act 1995, which established the national air quality strategy under Part IV. This has provided the vehicle for adopting additional obligations on air quality imposed under European law.⁵

At the European level there is a clear transboundary dimension to air quality. The EU comprises a high concentration of industrialised nations all situated in close proximity. Airborne pollutants are no respecters of national borders and can be carried for hundreds, and even thousands, of miles. The EU (or EEC in its former life) has been active in the field of atmospheric emissions since the 1970s,⁶ although its approach was somewhat piecemeal. Certain measures were not really environmental measures at all and were more concerned with harmonising technical standards in the interests of the common market; early tailpipe emission limits on motor cars are a classic example of this.⁷ Other measures focused on exhaust emissions from particular industrial sectors but did not form part of an integrated approach.⁸

It was not until the 1990s that the EU instigated a strategy for improving European air quality as a whole. To this end an air quality framework measure, namely Directive 96/62, was promulgated which put in place the means for establishing EU-wide air quality standards in respect of specified substances. Directive 2008/50⁹ on ambient air quality and cleaner air for Europe (hereinafter referred to as ‘the new Air Quality Directive’ or ‘the AQD’) is the first major revision to the original approach. It consolidates a range of measures and adds certain new objectives.

THE ORIGINAL AIR QUALITY FRAMEWORK DIRECTIVE 96/62

Directive 96/62 on ambient air quality assessment and management¹⁰ (hereinafter referred to as ‘the original Air Quality Directive’ or ‘the original AQD’) enabled the setting of EU-wide air quality values in respect of 13 pollutants¹¹ and required Member States to establish certain monitoring and reporting procedures in respect of those substances. Where acceptable levels of certain pollutants were exceeded, Member States were required to put into effect action plans to remediate the situation. The Directive adopted a framework approach in that it established a general strategy and methodology which was supplemented by a series of detailed daughter Directives pertaining to specific substances. These stipulated specific methodologies for assessing levels in the atmosphere of certain types of pollutant and detailed air quality values.

4 Enacted as a direct response to the public alarm engendered by the great London smog of 1952, which caused an estimated 4,000 deaths.

5 See s. 80(2)(a), which expressly anticipates EC intervention.

6 Air pollution was mentioned as a policy area in the first EEC (as it then was) environmental action programme, which took the form of a joint declaration by the Member States: [1973] OJ L C112/1.

7 See, e.g., Council Directive (EEC) 70/220 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 [1970] OJ L176/1.

8 See, e.g., the first industrial emissions Directive: Council Directive (EEC) 84/360 on the combating of air pollution from industrial plants [1984] OJ L188/20.

9 European Parliament and Council Directive (EC) 2008/50 on ambient air quality and cleaner air for Europe [2008] OJ L 152/1.

10 Council Directive 96/62 on ambient air quality assessment and management [1996] OJ L296/55.

11 Ibid., Article 4 and Annex I: sulphur dioxide, nitrogen dioxide, fine particulate matter such as soot (including PM10), suspended particulate matter, lead, ozone, benzene, carbon monoxide, poly-aromatic hydrocarbons, cadmium, arsenic, nickel and mercury.

THE NEW AIR QUALITY DIRECTIVE 2008/50: BACKGROUND AND OVERVIEW

The new Air Quality Directive replaces the original measure, although it has not introduced any radical reforms and it serves to consolidate the existing regime in most respects. Before turning to the content of the Directive itself, it is necessary to place it in context by considering the developments which took place between the enactment of the original measure and the promulgation of the new AQD.

The Sixth Environmental Action Programme

The Sixth Environmental Action Programme (EAP 6)¹² was promulgated in July 2002 and runs until July 2012. The need to improve air quality throughout the EU features heavily in EAP 6, which sets out an ambitious objective to be attained by 2020 – namely, ‘achieving levels of air quality that do not give rise to significant negative impacts on and risks to human health and the environment’.¹³ The Programme also requires the Commission to adopt a thematic approach, entailing the adoption of sub-programmes in key areas including air quality.¹⁴

Clean Air for Europe (CAFE) Programme

As regards atmospheric emissions, the Commission responded to EAP 6 by launching the Clean Air for Europe (CAFE) Programme.¹⁵ In short, the CAFE Programme constituted a rolling programme of policy review and legislative reform in response to emerging scientific data and international commitments on issues such as acidification and climate change.

The new Air Quality Directive appears to represent the fruits of the CAFE Programme’s labour in that the initiative now seems to have been wound up.¹⁶ Given that the Seventh Action Programme is appearing on the horizon, it is unlikely that there will be any major new policy initiatives until then.

AIR QUALITY STANDARDS

The new Directive consolidates the original framework Directive and (most) of its progeny into a single measure together with a number of ancillary instruments.¹⁷ In most cases quality standards under the original Directive had to be attained by 2005 (or 2010 in some cases).¹⁸ For the most part, the new AQD maintains those standards rather than substituting them with new values. The main differences include the adoption of new

12 European Council and European Parliament (EC) Decision 1600/2002/EC laying down the Sixth Community Environmental Action Programme [2002] OJ L 242/1.

13 Ibid., Art. 7(1).

14 Ibid. As regards atmospheric pollution, see Art. 7(2)(f).

15 Commission Communication on the Clean Air for Europe (CAFE) Programme, COM(2001) 245.

16 The programme was not tremendously prolific in terms of output. The only major policy pronouncement was published back in 2005: Communication from the Commission to the Council and the European Parliament, ‘Thematic Strategy on Air Pollution’, 446 final (Brussels, 21 September 2005) COM(2005).

17 For the moment the new Directive leaves out arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons, which remain subject to the fourth daughter Directive 2004/107. This is where most technical difficulties have been experienced in terms of implementation and, according to Recital (4) of AQD 2008/50, above n. 9, consideration will be given to including the fourth daughter Directive in the new consolidated measure once more experience has been gained in this area.

18 It remains to be seen whether a plethora of enforcement actions will be brought in respect of failing to attain the original objectives. On occasion enforcement actions have been brought in respect of a Member State’s failure to comply with reporting requirements under Art. 11 of the original Air Quality Directive 96/62, above n. 10: see Case C-139/04 *Commission of the European Communities v Italian Republic* [2006] ECR I-00005.

standards in respect of fine particulates (PM 2.5) which had not been included in the previous regime.

Overarching requirements

The original Directive required Member States to establish zones for the purpose of monitoring air quality and for drafting air improvement strategies. Thus an urban centre clearly requires a strategy that is different from that of a remote rural location. Member States were also required to identify and take certain measures in respect of agglomerations which are defined as areas with a particular population density. Both these elements have been preserved by the new Air Quality Directive.¹⁹

The zoning and agglomeration requirements determine the manner in which air quality values are applied. The original Directive established three main types of limit which have been maintained by the new AQD. The 'limit value'²⁰ is the legal minimum and in some cases a more ambitious 'target value' is set. Target values are defined in equivocal terms; thus Member States must attain them 'where possible' and 'over a period of time'.²¹ Whilst there is no specific penalty for exceeding a target value *per se*, the Member State must show that it aspires to this objective and has plans in place to achieve it. Target values are typically used where there is scientific uncertainty regarding what levels are acceptable (if at all), or where it has not been possible to achieve political consensus. Provision is also made for 'alert thresholds'²² which require emergency steps to be taken if there is an immediate threat to human health caused by brief exposure. One additional type of value added by the new Directive is the 'critical level'²³ above which there may be a direct impact on trees, plants and ecosystems, although not on humans. The inclusion of such values may reflect concerns that the air quality regime is unduly anthropocentric in its outlook; however, as we shall see, they do not constitute any advance on the previous measure.²⁴

Transparency and openness is a recurring theme in the Directive and to this end Chapter V sets out various information and reporting requirements. Member States are required to make data on air quality available to the public.²⁵ As might be expected, the internet has proved to be a vital tool in this respect. In the UK, DEFRA (in association with relevant departments of the Welsh, Scottish and Northern Irish Governments) established the publically accessible Air Quality Archive.²⁶ This provides a gateway to data on air quality in the UK including real time readings from all UK monitoring and sampling stations and air pollution 'weather forecasts'. Various interested parties, such as non-governmental organisations, must be given prior notice of certain decisions and action plans.

Of course, this data is meaningless unless one knows the levels of pollutant that are deemed acceptable under the regime. The actual determination and assessment of air quality values are where most complications are to be found.

19 With regard to the definition of 'zones', see AQ Directive 2008/50, above n. 9, Art. 2(16), and see Art. 2(17) in respect of agglomerations.

20 See new AQD 2008/50, above n. 9, Art. 2(5).

21 Ibid., Art. 2(9).

22 Ibid., Art. 2(10).

23 Ibid., Art. 2(6).

24 A criticism levelled against quality values in general by Howarth: see W. Howarth, 'The progression towards ecological quality standards', (2006) 18 JEL 3.

25 AQ Directive 2008/50, above n. 9, Art. 26.

26 Available at <<http://www.airquality.co.uk/index.php>> (accessed 28 October 2010).

Assessment of ambient air quality in relation to sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter, lead, benzene and carbon monoxide

The first daughter Directive 99/30²⁷ introduced air quality standards in respect of sulphur dioxide (SO₂), nitrogen oxides (NO_x) and PM₁₀ (coarse particulate matter). These substances are closely associated with heavy industries which burn fossil fuels, such as electricity generation,²⁸ steel and cement production. The new Air Quality Directive incorporates these standards in section 1 of Chapter 2, in which are also included lead, benzene, and carbon monoxide. The latter substances, which are typically associated with vehicle emissions, were formerly dealt with under the second daughter Directive.²⁹ The new AQD adds fine particulate matter (PM_{2.5}) to this list for the first time.

It would be tedious and unnecessary to recite at length all the specific air quality values here. However, it is useful to outline briefly how the system works by reference to specific examples. As regards sulphur dioxide, the Directive establishes certain limit values for the protection of human health.³⁰ There are two figures to be aware of – namely, an hourly and a daily average. Thus, generally speaking, the hourly average of SO₂ must not exceed 350µg/m³ and the daily average must not exceed 125µg/m³. However, it is recognised that there are likely to be peaks and troughs in atmospheric emissions caused by climatic conditions or exceptional events. This means that these figures can be exceeded on a limited number of occasions each year. The hourly limit can be exceeded on 24 occasions and the daily average can be exceeded on three occasions each year. These limits originally had to be implemented by 2005 under the original Directive and have not been tightened by the new measure. However, the alert threshold has been reduced to 500µg/m³ measured over a three-hour period.³¹ If an alert threshold is reached, a number of additional requirements are engaged including the need for the competent authority to draw up a short-term action plan.³² As regards protection of vegetation and ecosystems the new Directive sets out a critical level of 20µg/m³ for SO₂ and 30µg/m³ averaged over a calendar year and measured some distance away from agglomerations, industrial areas or busy roads.³³ These figures do not represent any reduction on similar values set out in the original Directive.

As previously noted, fine particulates (PM_{2.5}) are a new addition to the regime. The new Air Quality Directive establishes a complex emissions reduction programme. Ultimately, a limit value of 20µg/m³ must be attained by 2020, although a series of interim target values is also established. The emissions reduction programme for this pollutant is underpinned by a requirement for Member States to ‘take all necessary measures not entailing disproportionate costs to reduce exposure to PM_{2.5}’.³⁴ This would appear to be somewhat of a

27 Directive 1999/30 relating to limit values for sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead in the ambient air [1999] OJ L163/41.

28 Controversial research conducted on behalf of the Swedish Non-Governmental Organisation (NGO) Secretariat on Acid Rain used mathematical and statistical methodology employed by the EU's Clean Air for Europe (CAFE) Programme to estimate the number of premature deaths attributable to SO₂ and NO_x emissions from coal-fired power stations. A breakdown of the figures concluded that almost 7,000 deaths in the UK could be attributable to UK coal-fired power stations. The UK energy industry strongly refuted the figures. See ENDS, ‘Coal-fired power stations “kill 7,000 people per year”’ [2006] 374 ENDS Report 14.

29 Directive 2000/69 relating to limit values for benzene and carbon monoxide in ambient air [2000] OJ L313/12.

30 AQ Directive 2008/50, above n. 9, Annex XI.

31 Ibid., Annex XII.

32 Ibid., Art. 23.

33 Ibid., Annex 3(B)(2). Sampling points must be situated more than 20km away from agglomerations and more than 5km away from other built up areas or motorways or trunk roads carrying more than 50,000 vehicles per day.

34 Ibid., Art. 15.

hostage to fortune. It begs the question of to what extent it will be open to Member States to argue that the costs of achieving the reductions are unsustainable, especially when the issue of economic recession is constantly in the background.

In terms of monitoring and assessment, the Directive is reasonably prescriptive in terms of defining the density and locations of sampling points;³⁵ however, the specific methodology is not defined, which suggests that this is a matter for the Member States.³⁶ Actual measurements must be taken where air quality is often poor; a busy road junction would be an obvious example. In other areas it may be possible to use computer modelling techniques.³⁷

Ozone

As regards ozone the new Directive incorporates the third daughter Directive.³⁸ The type of ozone gas in issue includes tropospheric ozone and ground level ozone.³⁹ Increased concentrations of low altitude ozone are a symptom of extreme weather events, such as heat waves, and have major public health implications.⁴⁰ However, it is very difficult to establish air quality values for this type of gas for various technical reasons. The pollutant differs from other substances in that it is not emitted in its final form from specific sources; rather, it is formed in the atmosphere by the chemical interaction between several precursor substances⁴¹ and light.

These difficulties are reflected in the air quality standards set out in the new Air Quality Directive.⁴² Short-term objectives are expressed as target values which take effect immediately. In addition, the Directive establishes certain 'long-term objectives', although a specific deadline has not been included.⁴³

Monitoring requirements are established in respect of the precursor substances with a view to synchronising air quality standards with emission limits (under other legislation) regarding those pollutants.⁴⁴

35 Ibid., Annex III.

36 As regards air quality monitoring in the UK, precise information on the location and type of all sampling stations can be viewed at DEFRA's 'UK Automatic Urban and Rural Network (AURN)' site, available at <<http://aurn.defra.gov.uk/>> (accessed 28 October 2010).

37 AQ Directive 2008/50, above n. 9, Art. 6 and Annex II. This determination must be made on the basis of data gained during the currency of the original AQD. Thus, where average figures for a pollutant exceeded an upper assessment threshold (which for SO₂ is 60% of the 24-hour limit value) actual measurements must be taken. Where pollutants fell below a lower threshold (which for SO₂ is 40% of the 24-hour limit) modelling techniques may be used. As regards emissions falling between these two values, a combination of the two approaches may be utilised.

38 Directive 2002/3 relating to ozone in ambient air [2002] OJ L67/14.

39 As regards monitoring and other general requirements pertaining to ozone, see new AQ Directive 2008/50, above n. 9, Arts. 9–11.

40 Ground-level ozone is thought to be a major contributing factor to the large number of deaths which occurred as a result of the 2003 European heat wave, especially in France. See T. Kosatsky, 'European Heat Waves' (2005) 10(7) *Eurosurveillance* 552, available at <<http://www.eurosurveillance.org/ViewArticle.aspx?ArticleId=552>> (accessed 29 October 2010).

41 Including nitrogen oxide (NO₂) and hydrocarbons, carbon monoxide, methane and volatile organic compounds.

42 AQ Directive 2008/50, above n. 9, Annex VII.

43 Ibid. The absence of a deadline is curious in that similar long-term objectives were set out in the third daughter Directive 2002/3. However, in this measure a deadline of 2020 was established.

44 Ibid., Annex X.

The fourth daughter Directive

The fourth and final daughter Directive⁴⁵ covers the outstanding group of substances – namely, cadmium, arsenic, nickel, mercury and polycyclic aromatic hydrocarbons (PAH). This is the only daughter Directive which has yet to be absorbed by the new consolidated measure, although there is an expectation that this will happen in the near future.⁴⁶ It proved especially difficult to secure political agreement on this measure because of a number of issues, which included the wide range of industries affected⁴⁷ and the technical difficulties and costs associated with abatement of these pollutants. A fundamental difficulty concerned the fact that these substances are highly carcinogenic and there is no threshold below which they can be considered to be safe. As a result of a successful lobbying campaign by industry the Commission opted for target values rather than binding limit values.⁴⁸ It is notable that no target value was set for mercury. The ultra hazardous nature of this substance and its complex cross-media effects has necessitated a separate research programme. A decision was taken to suspend the adoption of a target value in respect of mercury pending the outcome of this research.⁴⁹ Furthermore, the measure places heavy emphasis on the fact that efforts to attain these targets must be driven by the application of Best Available Techniques (BAT).⁵⁰ In fact, the Directive appears to suggest that application of BAT will suffice to comply with the Directive notwithstanding the fact that this approach may not prove sufficient to achieve the target values.⁵¹

PLANNING AND STRATEGIC REQUIREMENTS

The new Air Quality Directive demands that Member States adopt a strategic approach to gradually improve air quality and, to this end, are required to prepare various action plans. Long-term air quality plans⁵² must show how regulators intend to maintain values that have already been achieved or how they propose to attain new values and targets. This could include green initiatives such as improved public transport infrastructure or more rigorous enforcement of industrial emissions limits.⁵³ As previously noted, where alert thresholds are exceeded or are likely to be exceeded, the Member State must prepare a short-term action plan setting out immediate remedial measures.⁵⁴ In both cases the plans must be communicated to the Commission.

45 Directive 2004/107/EC relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air [2004] OJ L 23/3.

46 See new AQ Directive 2008/50, above n. 9, Recital 4.

47 These included a multitude of combustion processes including metal smelting, the chemicals industry, transport and even agriculture where arsenic, for example, may be an element in pesticides. See L. Krämer, *EC Environmental Law* (5th edn), (Sweet & Maxwell, London, 2003) 273 at 277.

48 The target values for arsenic, cadmium, nickel and benzo(a)pyrene are set out in Annex I of the new AQD and are as follows: arsenic 6 ng/m³; cadmium 5ng/m³; nickel 20ng/m³; benzo(a)pyrene 1 ng/m³.

49 See Directive 2004/107, above n. 45, paras 9 and 10 of the Preamble.

50 This is highlighted by the fifth paragraph of the Preamble which states: 'The target values would not require any measures entailing disproportionate costs. Regarding industrial installations, they would not involve measures beyond the application of best available techniques (BAT) as required by Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control and in particular would not lead to the closure of installations. However, they would require Member States to take all cost-effective abatement measures in the relevant sectors.'

51 Ibid. This is reiterated by Art. 3 which emphasises that the main obligation is to apply BAT to emission sources covered by Directive 96/61 on integrated pollution prevention control (see below).

52 AQ Directive 2008/50, above n. 9, Art. 23.

53 These are certainly prevalent themes in the UK's current air quality strategy: see DEFRA, 'The Air Quality Strategy for England, Scotland, Wales and Northern Ireland' (Cm 7169, 2007).

54 AQ Directive 2008/50, above n. 9, Art. 24. In the UK this task falls to the local authority which must declare an Air Quality Management Area and formulate a Local Air Quality Management Plan. A list of authorities which have made such declarations can be found on the relevant webpage at DEFRA, available at <<http://aqma.defra.gov.uk/>>, although a brief perusal indicates a distinct lack of action plans.

Until recently, it was not clear whether the objectives or the Air Quality Directive were legally enforceable or whether they amounted to mere political aspirations. The Directive imposes a plethora of procedural requirements on Member States and the competent authorities. However, enforcement of a procedural requirement⁵⁵ does not necessarily affect the substance of air quality management decisions. In an earlier edition of *EC Environmental Law* Krämer commented, in respect of the original AQ Directive: ‘EC air quality values constitute policy guidance standards rather than legal instruments.’⁵⁶

This rather negative assertion regarding the enforceability of the objectives of the Directive must now be considered in the light of the European Court of Justice (ECJ) decisions in Case C-237/07 *Janecek v Freistaat Bayern*.⁵⁷ In this case the claimant, who lived near Munich’s central ring road, was concerned about levels of PM₁₀ and the effect on the health of local residents. The ECJ held that the obligation on competent authorities to draw up action plans conferred rights on local residents to insist that such measures were taken. In this respect it would seem that the Directive has direct effect.⁵⁸

RELATIONSHIP WITH OTHER MEASURES

Emission limits clearly play a vital role in securing the reductions in pollutants necessary to achieve improvements in air quality. As regards industrial emissions the key Directives include the Integrated Pollution Prevention Control (IPPC) Directive⁵⁹ and the Large Combustions Plants Directive.⁶⁰ These measures are due to be merged into a gargantuan new Industrial Emissions Directive.⁶¹ There is an expectation that permits issued to such plants will take into account the effect of emissions on the objectives of the Air Quality Directive.⁶² In addition, air quality requirements influence a range of other technical measures and general policy initiatives associated with transport policy, fuel content and specification of vehicle engines.⁶³

CONCLUSIONS

In recent years local and regional air quality has been overshadowed somewhat by the understandable focus on climate change. However, local air quality must remain at the top of the political agenda because of its direct impact on public health and the environ-

55 See, e.g., Case C-139/04 *Commission v Italy* [2006] ECR I-5 concerning enforcement action against Italy relating to the failure to comply with reporting requirements in respect of certain atmospheric pollutants.

56 Krämer, above n. 47.

57 [2008] ECR I-6221

58 Thus, if it is indeed the case that local authorities in the UK (see n. 54) have been somewhat tardy in preparing actions plans, this decision could have serious implications.

59 European Council and European Parliament (EC) Directive 2008/1 concerning integrated pollution prevention and control [2008] OJ L24/8.

60 European Council and European Parliament (EC) Directive 2001/80 on the limitation of emissions into the air of certain pollutants from large combustion plants [2001] OJ L309/1.

61 Commission (EC), ‘Proposal for a Directive of the European Parliament and of the Council on industrial emissions’ COM (2007) 844 final, 21 December 2007.

62 See new AQD 2008/50, above n. 9, Recital 18. As regards the relationship between emission limits and air quality values, the latter should be regarded as minimum requirements and regulators should seek to impose technologically based standards (BAT) which ideally transcend air quality requirements. This is made clear in the 4th Recital of the first daughter Directive 99/30 as discussed by Buxton LJ in *R (Rockware Glass) v Chester CC* [2006] EWCA Civ 992, [2007] Env LR 3.

63 In terms of improving air quality through technical standards, one of the greatest successes results from the drive for low sulphur fuels for motor vehicles and certain stationary plants: Council (EC) Directive 1999/32 relating to a reduction in the sulphur content of certain liquid fuels (1999) OJ L 121/13.

ment. Furthermore, the two issues are not entirely unrelated in that certain pollutants covered by the air quality regime also operate as ‘indirect’ greenhouse gases.

The new Air Quality Directive is not as radical as one might have expected given the renewed focus on air quality ushered in by the Clean Air for Europe Programme. The CAFE programme provided a convenient acronym for air quality policy; although – aside from its incorporation in the title of the new Directive – it is difficult to see what added value the initiative has brought to the regime.

The new Directive performs an important function in tidying up the earlier version of the regime by incorporating the framework and daughter Directives. Furthermore, it consolidates the existing standards. However, aside from the inclusion of PM_{2.5} there is little to report that is fundamentally new or different. Perhaps the biggest disappointment is the lack of progress in formulating new ecological standards. In this respect the new Directive is still open to the charge that it is unduly anthropocentric. Nevertheless, the measure should protect those advances which *have* been made and provide a solid platform for future initiatives. If major new initiatives on air quality emerge from the Seventh Environmental Action Programme, the legislative machinery is well in place to put those initiatives into effect. In future there is likely to be increased focus on the connection between local air quality and climate change. If heat waves are to become more frequent in future, it is likely that there will be increased levels of ground-level ozone and other pollutants trapped by temperature inversion. Perhaps the next stage will entail assimilating air quality with these wider atmospheric issues.

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