

**Directive 2001/80/EC of the European Parliament and of the Council
of 23 October 2001
on the limitation of emissions of certain pollutants into the air from large
combustion plants**

**--- consolidated version based on the European Commission's proposal of 29
April 2013---**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Having regard to the Treaty establishing the European Community, and in particular
Article 175(1) thereof,
Having regard to the proposal from the Commission(1),
Having regard to the Opinion of the Economic and Social Committee(2),
Having consulted the Committee of the Regions,
Acting in accordance with the procedure laid down in Article 251 of the Treaty(3), in the
light of the joint text approved by the Conciliation Committee on 2 August 2001,

Whereas:

(1) Council Directive 88/609/EEC of 24 November 1988 on the limitation of emissions of certain pollutants into the air from large combustion plants(4) has contributed to the reduction and control of atmospheric emissions from large combustion plants. It should be recast in the interests of clarity.

(2) The Fifth Environmental Action Programme(5) sets as objectives that the critical loads and levels of certain acidifying pollutants such as sulphur dioxide (SO₂) and nitrogen oxides (NO_x) should not be exceeded at any time and, as regards air quality, that all people should be effectively protected against recognised health risks from air pollution.

(3) All Member States have signed the Gothenburg Protocol of 1 December 1999 to the 1979 Convention of the United Nations Economic Commission for Europe (UNECE) on long-range transboundary air pollution to abate acidification, eutrophication and ground-level ozone, which includes, inter alia, commitments to reduce emissions of sulphur dioxide and oxides of nitrogen.

(4) The Commission has published a Communication on a Community strategy to combat acidification in which the revision of Directive 88/609/EEC was identified as being an integral component of that strategy with the long term aim of reducing emissions of sulphur dioxide and nitrogen oxides sufficiently to bring depositions and concentrations down to levels below the critical loads and levels.

(5) In accordance with the principle of subsidiarity as set out in Article 5 of the Treaty, the objective of reducing acidifying emissions from large combustion plants cannot be sufficiently achieved by the Member States acting individually and unconcerted action offers no guarantee of achieving the desired objective; in view of the need to reduce acidifying emissions across the Community, it is more effective to take action at Community level.

(6) Existing large combustion plants are significant contributors to emissions of sulphur dioxide and nitrogen oxides in the Community and it is necessary to reduce these

emissions. It is therefore necessary to adapt the approach to the different characteristics of the large combustion plant sector in the Member States.

(7) Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control⁽⁶⁾ sets out an integrated approach to pollution prevention and control in which all the aspects of an installation's environmental performance are considered in an integrated manner; combustion installations with a rated thermal input exceeding 50 MW are included within the scope of that Directive; pursuant to Article 15(3) of that Directive an inventory of the principal emissions and sources responsible is to be published every three years by the Commission on the basis of data supplied by the Member States. Pursuant to Article 18 of that Directive, acting on a proposal from the Commission, the Council will set emission limit values in accordance with the procedures laid down in the Treaty for which the need for Community action has been identified, on the basis, in particular, of the exchange of information provided for in Article 16 of that Directive.

(8) Compliance with the emission limit values laid down by this Directive should be regarded as a necessary but not sufficient condition for compliance with the requirements of Directive 96/61/EC regarding the use of best available techniques. Such compliance may involve more stringent emission limit values, emission limit values for other substances and other media, and other appropriate conditions.

(9) Industrial experience in the implementation of techniques for the reduction of polluting emissions from large combustion plants has been acquired over a period of 15 years.

(10) The Protocol on heavy metals to the UNECE Convention on long-range transboundary air pollution recommends the adoption of measures to reduce heavy metals emitted by certain installations. It is known that benefits from reducing dust emissions by dust abatement equipment will provide benefits on reducing particle-bound heavy metal emissions.

(11) Installations for the production of electricity represent an important part of the large combustion plant sector.

(12) Directive 96/92/EC of the European Parliament and of the Council of 19 December 1996 concerning common rules for the internal market in electricity⁽⁷⁾ is intended inter alia to have the effect of distributing new production capacity among new arrivals in the sector.

(13) The Community is committed to a reduction of carbon dioxide emissions. Where it is feasible the combined production of heat and electricity represents a valuable opportunity for significantly improving overall efficiency in fuel use.

(14) A significant increase in the use of natural gas for producing electricity is already underway and is likely to continue, in particular through the use of gas turbines.

(15) In view of the increase in energy production from biomass, specific emission standards for this fuel are justified.

(16) The Council Resolution of 24 February 1997 on a Community strategy for waste management⁽⁸⁾ emphasises the need for promoting waste recovery and states that appropriate emission standards should apply to the operation of facilities in which waste is incinerated in order to ensure a high level of protection for the environment.

(17) Industrial experience has been gained concerning techniques and equipment for the measurement of the principal pollutants emitted by large combustion plants; the European Committee for Standardisation (CEN) has undertaken work with the aim of providing a framework securing comparable measurement results within the Community and guaranteeing a high level of quality of such measurements.

(18) There is a need to improve knowledge concerning the emission of the principal pollutants from large combustion plants. In order to be genuinely representative of the level of pollution of an installation, such information should also be associated with knowledge concerning its energy consumption.

(19) This Directive is without prejudice to the time limits within which the Member States must transpose and implement Directive 88/609/EEC,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

This Directive shall apply to combustion plants, the rated thermal input of which is equal to or greater than 50 MW, irrespective of the type of fuel used (solid, liquid or gaseous).

Article 2

For the purpose of this Directive:

(1) "emission" means the discharge of substances from the combustion plant into the air;

(2) "waste gases" means gaseous discharges containing solid, liquid or gaseous emissions; their volumetric flow rates shall be expressed in cubic metres per hour at standard temperature (273 K) and pressure (101,3 kPa) after correction for the water vapour content, hereinafter referred to as (Nm³/h);

(3) "emission limit value" means the permissible quantity of a substance contained in the waste gases from the combustion plant which may be discharged into the air during a given period; it shall be calculated in terms of mass per volume of the waste gases expressed in mg/Nm³, assuming an oxygen content by volume in the waste gas of 3 % in the case of liquid and gaseous fuels, 6 % in the case of solid fuels and 15 % in the case of gas turbines;

(4) "rate of desulphurisation" means the ratio of the quantity of sulphur which is not emitted into the air at the combustion plant site over a given period to the quantity of sulphur contained in the fuel which is introduced into the combustion plant facilities and which is used over the same period;

(5) "operator" means any natural or legal person who operates the combustion plant, or who has or has been delegated decisive economic power over it;

(6) "fuel" means any solid, liquid or gaseous combustible material used to fire the combustion plant with the exception of waste covered by Council Directive 89/369/EEC of 8 June 1989 on the prevention of air pollution from new municipal waste incineration plants(9), Council Directive 89/429/EEC of 21 June 1989 on the reduction of air pollution from existing municipal waste incineration plants(10), and Council Directive 94/67/EC of 16 December 1994 concerning the incineration of hazardous waste(11) or any subsequent Community act repealing and replacing one or more of these Directives;

(7) "combustion plant" means any technical apparatus in which fuels are oxidised in order to use the heat thus generated.

This Directive shall apply only to combustion plants designed for production of energy with the exception of those which make direct use of the products of combustion in

manufacturing processes. In particular, this Directive shall not apply to the following combustion plants:

- (a) plants in which the products of combustion are used for the direct heating, drying, or any other treatment of objects or materials e.g. reheating furnaces, furnaces for heat treatment;
- (b) post-combustion plants i.e. any technical apparatus designed to purify the waste gases by combustion which is not operated as an independent combustion plant;
- (c) facilities for the regeneration of catalytic cracking catalysts;
- (d) facilities for the conversion of hydrogen sulphide into sulphur;
- (e) reactors used in the chemical industry;
- (f) coke battery furnaces;
- (g) cowpers;
- (h) any technical apparatus used in the propulsion of a vehicle, ship or aircraft;
- (i) gas turbines used on offshore platforms;
- (j) gas turbines licensed before 27 November 2002 or which in the view of the competent authority are the subject of a full request for a licence before 27 November 2002 provided that the plant is put into operation no later than 27 November 2003 without prejudice to Article 7(1) and Annex VIII(A) and (B);

Plants powered by diesel, petrol and gas engines shall not be covered by this Directive.

Where two or more separate new plants are installed in such a way that, taking technical and economic factors into account, their waste gases could, in the judgement of the competent authorities, be discharged through a common stack, the combination formed by such plants shall be regarded as a single unit;

(8) "multi-fuel firing unit" means any combustion plant which may be fired simultaneously or alternately by two or more types of fuel;

(9) "new plant" means any combustion plant for which the original construction licence or, in the absence of such a procedure, the original operating licence was granted on or after 1 July 1987;

(10) "existing plant" means any combustion plant for which the original construction licence or, in the absence of such a procedure, the original operating licence was granted before 1 July 1987;

(11) "biomass" means products consisting of any whole or part of a vegetable matter from agriculture or forestry which can be used as a fuel for the purpose of recovering its energy content and the following waste used as a fuel:

- (a) vegetable waste from agriculture and forestry;
- (b) vegetable waste from the food processing industry, if the heat generated is recovered;
- (c) fibrous vegetable waste from virgin pulp production and from production of paper from pulp, if it is co-incinerated at the place of production and the heat generated is recovered;
- (d) cork waste;
- (e) wood waste with the exception of wood waste which may contain halogenated organic compounds or heavy metals as a result of treatment with wood preservatives or coating, and which includes in particular such wood waste originating from construction and demolition waste;

(12) "gas turbine" means any rotating machine which converts thermal energy into mechanical work, consisting mainly of a compressor, a thermal device in which fuel is oxidised in order to heat the working fluid, and a turbine.

(13) "Outermost Regions" means the French Overseas Departments with regard to France, the Azores and Madeira with regard to Portugal and the Canary Islands with regard to Spain.

Article 3

1. Not later than 1 July 1990 ~~Member States~~Contracting Parties shall draw up appropriate programmes for the progressive reduction of total annual emissions from existing plants. The programmes shall set out the timetables and the implementing procedures.

2. In accordance with the programmes mentioned in paragraph 1, ~~Member States~~Contracting Parties shall continue to comply with the emission ceilings and with the corresponding percentage reductions laid down for sulphur dioxide in Annex I, columns 1 to 6, and for oxides of nitrogen in Annex II, columns 1 to 4, by the dates specified in those Annexes, until the implementation of the provisions of Article 4 that apply to existing plants.

3. When the programmes are being carried out, ~~Member States~~Contracting Parties shall also determine the total annual emissions in accordance with Annex VIII(C).

4. If a substantial and unexpected change in energy demand or in the availability of certain fuels or certain generating installations creates serious technical difficulties for the implementation by a Member State of its programme drawn up under paragraph 1, the ~~Commission~~Secretariat shall, at the request of the Member State concerned and taking into account the terms of the request, take a decision to modify, for that Member State, the emission ceilings and/or the dates set out in Annexes I and II and communicate its decision to the Council and to the ~~Member States~~Contracting Parties. Any Member State may within three months refer the decision of the ~~Commission~~Secretariat to the Council. The Council, acting by a qualified majority, may within three months take a different decision.

Article 4

1. Without prejudice to Article 17 ~~Member States~~Contracting Parties shall take appropriate measures to ensure that all licences for the construction or, in the absence of such a procedure, for the operation of new plants which in the view of the competent authority are the subject of a full request for a licence before 27 November 2002, provided that the plant is put into operation no later than 27 November 2003 contain conditions relating to compliance with the emission limit values laid down in part A of Annexes III to VII in respect of sulphur dioxide, nitrogen oxides and dust.

2. ~~Member States~~Contracting Parties shall take appropriate measures to ensure that all licences for the construction or, in the absence of such a procedure, for the operation of new plants, other than those covered by paragraph 1, contain conditions relating to compliance with the emission limit values laid down in part B of Annexes III to VII in respect of sulphur dioxide, nitrogen oxides and dust.

3. Without prejudice to Directive 96/61/EC and Council Directive 96/62/EC of 27 September 1996 on ambient air quality assessment and management⁽¹²⁾, ~~Member States~~Contracting Parties shall, by 1 January ~~2008~~2018 at the latest, achieve significant emission reductions by:

(a) taking appropriate measures to ensure that all licences for the operation of existing plants contain conditions relating to compliance with the emission limit values established for new plants referred to in paragraph 1; or

(b) ensuring that existing plants are subject to the national emission reduction plan referred to in paragraph 6;

and, where appropriate, applying Articles 5, 7 and 8.

4. Without prejudice to Directives 96/61/EC and 96/62/EC, existing plants may be exempted from compliance with the emission limit values referred to in paragraph 3 and from their inclusion in the national emission reduction plan on the following conditions:

(a) the operator of an existing plant undertakes, in a written declaration submitted by 30 June 2004 at the latest to the competent authority, not to operate the plant for more than 20000 operational hours starting from 1 January 2008 and ending no later than 31 December 2015;

(b) the operator is required to submit each year to the competent authority a record of the used and unused time allowed for the plants' remaining operational life.

5. ~~Member States~~Contracting Parties may require compliance with emission limit values and time limits for implementation which are more stringent than those set out in paragraphs 1, 2, 3 and 4 and in Article 10. They may include other pollutants, and they may impose additional requirements or adaptation of plant to technical progress.

6. ~~Member States~~Contracting Parties may, without prejudice to this Directive and Directive 96/61/EC, and taking into consideration the costs and benefits as well as their obligations under Directive 2001/81/EC of the European Parliament and of the Council of 23 October 2001 on national emission ceilings for certain atmospheric pollutants⁽¹³⁾ and Directive 96/62/EC, define and implement a national emission reduction plan for existing plants, taking into account, inter alia, compliance with the ceilings as set out in Annexes I and II.

The national emission reduction plan shall reduce the total annual emissions of nitrogen oxides (NO_x), sulphur dioxide (SO₂) and dust from existing plants to the levels that would have been achieved by applying the emission limit values referred to in paragraph 3 to the existing plants in operation in the year ~~2000~~2010, (including those existing plants undergoing a rehabilitation plan in ~~2000~~2010, approved by the competent authority, to meet emission reductions required by national legislation) on the basis of each plant's actual annual operating time, fuel used and thermal input, averaged over the last five years of operation up to and including ~~2000~~2010.

The closure of a plant included in the national emission reduction plan shall not result in an increase in the total annual emissions from the remaining plants covered by the plan.

The national emission reduction plan may under no circumstances exempt a plant from the provisions laid down in relevant Community legislation, including inter alia Directive 96/61/EC.

The following conditions shall apply to national emission reduction plans:

(a) the plan shall comprise objectives and related targets, measures and timetables for reaching these objectives and targets, and a monitoring mechanism;

(b) ~~Member States~~Contracting Parties shall communicate their national emission reduction plan to the ~~Commission~~Secretariat no later than ~~27 November 2003~~31 December 2015;

(c) within ~~six~~nine months of the communication referred to in point (b) the ~~Commission~~Secretariat shall evaluate whether or not the plan meets the requirements of this paragraph. When the ~~Commission~~Secretariat considers that this is not the case, it shall inform the Member State and within the subsequent three months the Member State shall communicate any measures it has taken in order to ensure that the requirements of this paragraph are met;

(d) the ~~Commission~~Secretariat shall, no later than 27 November 2002, develop guidelines to assist ~~Member States~~Contracting Parties in the preparation of their plans.

N/A 7. Not later than 31 December 2004 and in the light of progress towards protecting human health and attaining the Community's environmental objectives for acidification and for air quality pursuant to Directive 96/62/EC, the Commission shall submit a report to the European Parliament and the Council in which it shall assess:

(a) the need for further measures;

(b) the amounts of heavy metals emitted by large combustion plants;

(c) the cost-effectiveness and costs and advantages of further emission reductions in the combustion plants sector in Member States compared to other sectors;

(d) the technical and economic feasibility of such emission reductions;

(e) the effects of both the standards set for the large combustion plants sector including the provisions for indigenous solid fuels, and the competition situation in the energy market, on the environment and the internal market;

(f) any national emission reduction plans provided by Member States in accordance with paragraph 6.

The Commission shall include in its report an appropriate proposal of possible end dates or of lower limit values for the derogation contained in footnote 2 to Annex VI A.

8. The report referred to in paragraph 7 shall, as appropriate, be accompanied by related proposals, having regard to Directive 96/61/EC.

Article 5

By way of derogation from Annex III:

(1) Plants, of a rated thermal input equal to or greater than 400 MW, which do not operate more than the following numbers of hours a year (rolling average over a period of five years),

- until 31 December 2015, 2000 hours;

- from 1 January 2016, 1500 hours;

shall be subject to a limit value for sulphur dioxide emissions of 800 mg/Nm³.

This provision shall not apply to new plants for which the licence is granted pursuant to Article 4(2).

(2) Until 31 December 1999, the Kingdom of Spain may authorise new power plants with a rated thermal input equal to or greater than 500 MW burning indigenous or imported solid fuels, commissioned before the end of 2005 and complying with the following requirements:

(a) in the case of imported solid fuels, a sulphur dioxide emission limit value of 800 mg/Nm³;

(b) in the case of indigenous solid fuels, at least a 60 % rate of desulphurisation, provided that the total authorised capacity of such plants to which this derogation applies does not exceed:

- 2000 MWe in the case of plants burning indigenous solid fuels;

- in the case of plants burning imported solid fuels either 7500 or 50 % of all the new capacity of all plants burning solid fuels authorised up to 31 December 1999, whichever is the lower.

Article 6

In the case of new plants for which the licence is granted pursuant to Article 4(2) or plants covered by Article 10, ~~Member States~~Contracting Parties shall ensure that the technical and economic feasibility of providing for the combined generation of heat and power is examined. Where this feasibility is confirmed, bearing in mind the market and the distribution situation, installations shall be developed accordingly.

Article 7

1. ~~Member States~~Contracting Parties shall ensure that provision is made in the licences or permits referred to in Article 4 for procedures relating to malfunction or breakdown of the abatement equipment. In case of a breakdown the competent authority shall in particular require the operator to reduce or close down operations if a return to normal operation is not achieved within 24 hours, or to operate the plant using low polluting fuels. In any case the competent authority shall be notified within 48 hours. In no circumstances shall the cumulative duration of unabated operation in any twelve-month period exceed 120 hours. The competent authority may allow exceptions to the limits of 24 hours and 120 hours above in cases where, in their judgement:

(a) there is an overriding need to maintain energy supplies, or

(b) the plant with the breakdown would be replaced for a limited period by another plant which would cause an overall increase in emissions.

2. The competent authority may allow a suspension for a maximum of six months from the obligation to comply with the emission limit values provided for in Article 4 for sulphur dioxide in respect of a plant which to this end normally uses low-sulphur fuel, in cases where the operator is unable to comply with these limit values because of an interruption in the supply of low-sulphur fuel resulting from a serious shortage. The ~~Commission~~Secretariat shall immediately be informed of such cases.

3. The competent authority may allow a derogation from the obligation to comply with the emission limit values provided for in Article 4 in cases where a plant which normally uses only gaseous fuel, and which would otherwise need to be equipped with a waste gas purification facility, has to resort exceptionally, and for a period not exceeding 10 days except where there is an overriding need to maintain energy supplies, to the use of other fuels because of a sudden interruption in the supply of gas. The competent authority shall immediately be informed of each specific case as it arises. ~~Member States~~Contracting Parties shall inform the ~~Commission~~Secretariat immediately of the cases referred to in this paragraph.

Article 8

1. In the case of plants with a multi-firing unit involving the simultaneous use of two or more fuels, when granting the licence referred to in Articles 4(1) or 4(2), and in the case of such plants covered by Articles 4(3) or 10, the competent authority shall set the emission limit values as follows:

(a) firstly by taking the emission limit value relevant for each individual fuel and pollutant corresponding to the rated thermal input of the combustion plant as given in Annexes III to VII,

(b) secondly by determining fuel-weighted emission limit values, which are obtained by multiplying the above individual emission limit value by the thermal input delivered by each fuel, the product of multiplication being divided by the sum of the thermal inputs delivered by all fuels,

(c) thirdly by aggregating the fuel-weighted limit values.

2. In multi-firing units using the distillation and conversion residues from crude-oil refining for own consumption, alone or with other fuels, the provisions for the fuel with the highest emission limit value (determinative fuel) shall apply, notwithstanding paragraph 1 above, if during the operation of the combustion plant the proportion contributed by that fuel to the sum of the thermal inputs delivered by all fuels is at least 50 %.

Where the proportion of the determinative fuel is lower than 50 %, the emission limit value is determined on a pro rata basis of the heat input supplied by the individual fuels in relation to the sum of the thermal inputs delivered by all fuels as follows:

(a) firstly by taking the emission limit value relevant for each individual fuel and pollutant corresponding to the rated heat input of the combustion plant as given in Annexes III to VII,

(b) secondly by calculating the emission limit value of the determinative fuel (fuel with the highest emission limit value according to Annexes III to VII and, in the case of two fuels having the same emission limit value, the fuel with the higher thermal input); this value is obtained by multiplying the emission limit value laid down in Annexes III to VII for that fuel by a factor of two, and subtracting from this product the emission limit value of the fuel with the lowest emission limit value,

(c) thirdly by determining the fuel-weighted emission limit values, which are obtained by multiplying the calculated fuel emission limit value by the thermal input of the determinative fuel and the other individual emission limit values by the thermal input delivered by each fuel, the product of multiplication being divided by the sum of the thermal inputs delivered by all fuels,

(d) fourthly by aggregating the fuel-weighted emission limit values.

3. As an alternative to paragraph 2, the following average emission limit values for sulphur dioxide may be applied (irrespective of the fuel combination used):

(a) for plants referred to in Article 4(1) and (3): 1000 mg/Nm³, averaged over all such plants within the refinery;

(b) for new plants referred to in Article 4(2): 600 mg/Nm³, averaged over all such plants within the refinery, with the exception of gas turbines.

The competent authorities shall ensure that the application of this provision does not lead to an increase in emissions from existing plants.

4. In the case of plants with a multi-firing unit involving the alternative use of two or more fuels, when granting the licence referred to in Article 4(1) and (2), and in the case of such plants covered by Articles 4(3) or 10, the emission limit values set out in Annexes III to VII corresponding to each fuel used shall be applied.

Article 9

Waste gases from combustion plants shall be discharged in controlled fashion by means of a stack. The licence referred to in Article 4 and licences for combustion plants covered by Article 10 shall lay down the discharge conditions. The competent authority shall in particular ensure that the stack height is calculated in such a way as to safeguard health and the environment.

Article 10

Where a combustion plant is extended by at least 50 MW, the emission limit values as set in part B of Annexes III to VII shall apply to the new part of the plant and shall be fixed in relation to the thermal capacity of the entire plant. This provision shall not apply in the cases referred to in Article 8(2) and (3).

Where the operator of a combustion plant is envisaging a change according to Articles 2(10)(b) and 12(2) of Directive 96/61/EC, the emission limit values as set out in part B of Annexes III to VII in respect of sulphur dioxide, nitrogen oxides and dust shall apply.

Article 11

In the case of construction of combustion plants which are likely to have significant effects on the environment in another Member State, the ~~Member States~~Contracting Parties shall ensure that all appropriate information and consultation takes place, in accordance with Article 7 of Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment⁽¹⁴⁾.

Article 12

~~Member States~~Contracting Parties shall take the necessary measures to ensure the monitoring, in accordance with Annex VIII(A), of emissions from the combustion plants covered by this Directive and of all other values required for the implementation of this Directive. ~~Member States~~Contracting Parties may require that such monitoring shall be carried out at the operator's expense.

Article 13

~~Member States~~Contracting Parties shall take appropriate measures to ensure that the operator informs the competent authorities within reasonable time limits about the results of the continuous measurements, the checking of the measuring equipment, the individual measurements and all other measurements carried out in order to assess compliance with this Directive.

Article 14

1. In the event of continuous measurements, the emission limit values set out in part A of Annexes III to VII shall be regarded as having been complied with if the evaluation of the results indicates, for operating hours within a calendar year, that:

(a) none of the calendar monthly mean values exceeds the emission limit values; and

(b) in the case of:

(i) sulphur dioxide and dust: 97 % of all the 48 hourly mean values do not exceed 110 % of the emission limit values,

(ii) nitrogen oxides: 95 % of all the 48 hourly mean values do not exceed 110 % of the emission limit values.

The periods referred to in Article 7 as well as start-up and shut-down periods shall be disregarded.

2. In cases where only discontinuous measurements or other appropriate procedures for determination are required, the emission limit values set out in Annexes III to VII shall be regarded as having been complied with if the results of each of the series of measurements or of the other procedures defined and determined according to the rules laid down by the competent authorities do not exceed the emission limit values.

3. In the cases referred to in Article 5(2) and (3), the rates of desulphurisation shall be regarded as having been complied with if the evaluation of measurements carried out pursuant to Annex VIII, point A.3, indicates that all of the calendar monthly mean values or all of the rolling monthly mean values achieve the required desulphurisation rates.

The periods referred to in Article 7 as well as start-up and shut-down periods shall be disregarded.

4. For new plants for which the licence is granted pursuant to Article 4(2), the emission limit values shall be regarded, for operating hours within a calendar year, as complied with if:

(a) no validated daily average value exceeds the relevant figures set out in part B of Annexes III to VII, and

(b) 95 % of all the validated hourly average values over the year do not exceed 200 % of the relevant figures set out in part B of Annexes III to VII.

The "validated average values" are determined as set out in point A.6 of Annex VIII.

The periods referred to in Article 7 as well as start up and shut down periods shall be disregarded.

Article 15

(N/A)

1. Member States shall, not later than 31 December 1990, inform the Commission of the programmes drawn up in accordance with Article 3(1).

At the latest one year after the end of the different phases for reduction of emissions from existing plants, the Member States shall forward to the Commission a summary report on the results of the implementation of the programmes.

An intermediate report is required as well in the middle of each phase.

2. The reports referred to in paragraph 1 shall provide an overall view of:

- (a) all the combustion plants covered by this Directive,
- (b) emissions of sulphur dioxide, and oxides of nitrogen expressed in tonnes per annum and as concentrations of these substances in the waste gases,
- (c) measures already taken or envisaged with a view to reducing emissions, and of changes in the choice of fuel used,
- (d) changes in the method of operation already made or envisaged,
- (e) definitive closures of combustion plants already effected or envisaged, and
- (f) where appropriate, the emission limit values imposed in the programmes in respect of existing plants.

When determining the annual emissions and concentrations of pollutants in the waste gases, Member States shall take account of Articles 12, 13 and 14.

3. Member States applying Article 5 or the provisions of the Nota Bene in Annex III or the footnotes in Annex VI.A shall report thereon annually to the Commission.

Article 16

The ~~Member States~~Contracting Parties shall determine the penalties applicable to breaches of the national provisions adopted pursuant to this Directive. The penalties thus provided for shall be effective, proportionate and dissuasive.

Article 17

1. Directive 88/609/EEC shall be repealed with effect from 27 November 2002, without prejudice to paragraph 2 or to the obligations of Member States concerning the time limits for transposition and application of that Directive listed in Annex IX hereto.

2. In the case of new plants licensed before 27 November 2002 Article 4(1) of this Directive, Article 4(1), Article 5(2), Article 6, Article 15(3), Annexes III, VI, VIII and point A.2 of Annex IX to Directive 88/609/EEC as amended by Directive 94/66/EC shall remain in effect until 1 January 2008 after which they shall be repealed.

3. References to Directive 88/609/EEC shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex X hereto.

Article 18

1. ~~Member States~~Contracting Parties shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before ~~27 November 2002~~31 December 2017. They shall forthwith inform the ~~Commission~~Secretariat thereof.

When ~~Member States~~Contracting Parties adopt these provisions, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by ~~Member States~~Contracting Parties.

2. For existing plant, and for new plant for which a licence is granted pursuant to Article 4(1), the provisions of point A.2 of Annex VIII shall be applied from 27 November 2004.

3. ~~Member States~~Contracting Parties shall communicate to the ~~Commission~~Secretariat the texts of the provisions of national law which they adopt in the field covered by this Directive.

Article 19

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

Article 20

This Directive is addressed to the ~~Member States~~Contracting Parties.

Done at Luxembourg, 23 October 2001.

For the European Parliament

The President

N. Fontaine

For the Council

The President

A. Neyts-Uyttebroeck

(1) OJ C 300, 29.9.1998, p. 6, OJ C 212 E, 25.7.2000, p. 36.

(2) OJ C 101, 12.4.1999, p. 55.

(3) Opinion of the European Parliament of 14 April 1999 (OJ C 219, 30.7.1999, p. 175), Council Common Position of 9 November 2000 (OJ C 375, 28.12.2000, p. 12) and Decision of the European Parliament of 14 March 2001 (not yet published in the Official Journal). Decision of the European Parliament of 20 September 2001 and Decision of the Council of 27 September 2001.

(4) OJ L 336, 7.12.1988, p. 1. Directive as last amended by Council Directive 94/66/EC (OJ L 337, 24.12.1994, p. 83).

(5) OJ C 138, 17.5.1993, p. 1.

(6) OJ L 257, 10.10.1996, p. 26.

(7) OJ L 27, 30.1.1997, p. 20.

(8) OJ C 76, 11.3.1997, p. 1.

(9) OJ L 163, 14.6.1989, p. 32.

(10) OJ L 203, 15.7.1989, p. 50.

(11) OJ L 365, 31.12.1994, p. 34.

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

(13) See p. 22 of this Edition of the Official Journal.

(14) OJ L 175, 5.7.1985, p. 40. Directive as last amended by Council Directive 97/11/EC (OJ L 73, 14.3.1997, p. 5).

ANNEX I

CEILINGS AND REDUCTION TARGETS FOR EMISSIONS OF SO₂ FROM EXISTING PLANTS(1)(2)

>TABLE>

(1) Additional emissions may arise from capacity authorised on or after 1 July 1987.

(2) Emissions coming from combustion plants authorised before 1 July 1987 but not yet in operation before that date and which have not been taken into account in establishing the emission ceilings fixed by this Annex shall either comply with the requirements established by this Directive for new plants or be accounted for in the overall emissions from existing plants that must not exceed the ceilings fixed in this Annex.

ANNEX II

CEILINGS AND REDUCTION TARGETS FOR EMISSIONS OF NOX FROM EXISTING PLANTS(1)(2)

>TABLE>

(1) Additional emissions may arise from capacity authorised on or after 1 July 1987.

(2) Emissions coming from combustion plants authorised before 1 July 1987 but not yet in operation before that date and which have not been taken into account in establishing the emission ceilings fixed by this Annex shall either comply with the requirements established by this Directive for new plants or be accounted for in the overall emissions from existing plants that must not exceed the ceilings fixed in this Annex.

ANNEX III

EMISSION LIMIT VALUES FOR SO₂

Solid fuel

A. SO₂ emission limit values expressed in mg/Nm³ (O₂ content 6 %) to be applied by new and existing plants pursuant to Article 4(1) and 4(3) respectively:

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NB.

Where the emission limit values above cannot be met due to the characteristics of the fuel, a rate of desulphurisation of at least 60 % shall be achieved in the case of plants with a rated thermal input of less than or equal to 100 MWth, 75 % for plants greater than 100 MWth and less than or equal to 300 MWth and 90 % for plants greater than 300 MWth. For plants greater than 500 MWth, a desulphurisation rate of at least 94 % shall apply or of at least 92 % where a contract for the fitting of flue gas desulphurisation or lime injection equipment has been entered into, and work on its installation has commenced, before 1 January 2001.

B. SO₂ emission limit values expressed in mg/Nm³ (O₂ content 6 %) to be applied by new plants pursuant to Article 4(2) with the exception of gas turbines.

>TABLE>

NB.

Where the emission limit values above cannot be met due to the characteristics of the fuel, installations shall achieve 300 mg/Nm³ SO₂, or a rate of desulphurisation of at least 92 % shall be achieved in the case of plants with a rated thermal input of less than or equal to 300 MWth and in the case of plants with a rated thermal input greater than 300 MWth a rate of desulphurisation of at least 95 % together with a maximum permissible emission limit value of 400 mg/Nm³ shall apply.

ANNEX IV
EMISSION LIMIT VALUES FOR SO₂

Liquid fuels

A. SO₂ emission limit values expressed in mg/Nm³ (O₂ content 3 %) to be applied by new and existing plants pursuant to Article 4(1) and 4(3), respectively:

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B. SO₂ emission limit values expressed in mg/Nm³ (O₂ content 3 %) to be applied by new plants pursuant to Article 4(2) with the exception of gas turbines

>TABLE>

In the case of two installations with a rated thermal input of 250 MWth on Crete and Rhodos to be licensed before 31 December 2007 the emission limit value of 1700 mg/Nm³ shall apply.

ANNEX V
EMISSION LIMIT VALUES FOR SO₂

Gaseous fuels

A. SO₂ emission limit values expressed in mg/Nm³ (O₂ content 3 %) to be applied by new and existing plants pursuant to Article 4(1) and 4(3), respectively:

>TABLE>

B. SO₂ emission limit values expressed in mg/Nm³ (O₂ content 3 %) to be applied by new plants pursuant to Article 4(2):

>TABLE>

ANNEX VI
EMISSION LIMIT VALUES FOR NO_x (MEASURED AS NO₂)

A. NO_x emission limit values expressed in mg/Nm³ (O₂ content 6 % for solid fuels, 3 % for liquid and gaseous fuels) to be applied by new and existing plants pursuant to Article 4(1) and 4(3), respectively:

>TABLE>

B. NO_x emission limit values expressed in mg/Nm³ to be applied by new plants pursuant to Article 4(2) with the exception of gas turbines

Solid fuels (O₂ content 6 %)

>TABLE>

Liquid fuels (O₂ content 3 %)

>TABLE>

In the case of two installations with a rated thermal input of 250 MW_{th} on Crete and Rhodos to be licensed before 31 December 2007 the emission limit value of 400 mg/Nm³ shall apply.

Gaseous fuels (O₂ content 3 %)

>TABLE>

Gas Turbines

NO_x emission limit values expressed in mg/Nm³ (O₂ content 15 %) to be applied by a single gas turbine unit pursuant to Article 4(2) (the limit values apply only above 70 % load):

>TABLE>

Gas turbines for emergency use that operate less than 500 hours per year are excluded from these limit values. The operator of such plants is required to submit each year to the competent authority a record of such used time.

Note 1:

Natural gas is naturally occurring methane with not more than 20 % (by volume) of inerts and other constituents.

Note 2:

75 mg/Nm³ in the following cases, where the efficiency of the gas turbine is determined at ISO base load conditions:

- gas turbines, used in combined heat and power systems having an overall efficiency greater than 75 %;
- gas turbines used in combined cycle plants having an annual average overall electrical efficiency greater than 55 %;
- gas turbines for mechanical drives.

For single cycle gas turbines not falling into any of the above categories, but having an efficiency greater than 35 % - determined at ISO base load conditions - the emission limit value shall be $50 \cdot \eta / 35$ where η is the gas turbine efficiency expressed as a percentage (and at ISO base load conditions).

Note 3:

This emission limit value only applies to gas turbines firing light and middle distillates.

ANNEX VII
EMISSION LIMIT VALUES FOR DUST

A. Dust emission limit values expressed in mg/Nm³ (O₂ content 6 % for solid fuels, 3 % for liquid and gaseous fuels) to be applied by new and existing plants pursuant to Article 4(1) and 4(3), respectively:

>TABLE>

B. Dust emission limit values expressed in mg/Nm³ to be applied by new plants, pursuant to Article 4(2) with the exception of gas turbines:

Solid fuels (O₂ content 6 %)

>TABLE>

Liquid fuels (O₂ content 3 %)

>TABLE>

In the case of two installations with a rated thermal input of 250 MWth on Crete and Rhodes to be licensed before 31 December 2007 the emission limit value of 50 mg/Nm³ shall apply.

Gaseous fuels (O₂ content 3 %)

>TABLE>

ANNEX VIII

METHODS OF MEASUREMENT OF EMISSIONS

A. Procedures for measuring and evaluating emissions from combustion plants.

1. Until 27 November 2004

Concentrations of SO₂, dust, NO_x shall be measured continuously in the case of new plants for which a licence is granted pursuant to Article 4(1) with a rated thermal input of more than 300 MW. However, monitoring of SO₂ and dust may be confined to discontinuous measurements or other appropriate determination procedures in cases where such measurements or procedures, which must be verified and approved by the competent authorities, may be used to obtain concentration.

In the case of new plants for which a licence is granted pursuant to Article 4(1) not covered by the first subparagraph, the competent authorities may require continuous measurements of those three pollutants to be carried out where considered necessary. Where continuous measurements are not required, discontinuous measurements or appropriate determination procedures as approved by the competent authorities shall be used regularly to evaluate the quantity of the above-mentioned substances present in the emissions.

2. From 27 November 2002 and without prejudice to Article 18(2)

Competent authorities shall require continuous measurements of concentrations of SO₂, NO_x, and dust from waste gases from each combustion plant with a rated thermal input of 100 MW or more.

By way of derogation from the first subparagraph, continuous measurements may not be required in the following cases:

- for combustion plants with a life span of less than 10000 operational hours;
- for SO₂ and dust from natural gas burning boilers or from gas turbines firing natural gas;
- for SO₂ from gas turbines or boilers firing oil with known sulphur content in cases where there is no desulphurisation equipment;
- for SO₂ from biomass firing boilers if the operator can prove that the SO₂ emissions can under no circumstances be higher than the prescribed emission limit values.

Where continuous measurements are not required, discontinuous measurements shall be required at least every six months. As an alternative, appropriate determination procedures, which must be verified and approved by the competent authorities, may be used to evaluate the quantity of the above mentioned pollutants present in the emissions. Such procedures shall use relevant CEN standards as soon as they are available. If CEN standards are not available ISO standards, national or international standards which will ensure the provision of data of an equivalent scientific quality shall apply.

3. In the case of plants which must comply with the desulphurisation rates fixed by Article 5(2) and Annex III, the requirements concerning SO₂ emission measurements established under paragraph 2 of this point shall apply. Moreover, the sulphur content of the fuel which is introduced into the combustion plant facilities must be regularly monitored.

4. The competent authorities shall be informed of substantial changes in the type of fuel used or in the mode of operation of the plant. They shall decide whether the monitoring requirements laid down in paragraph 2 are still adequate or require adaptation.

5. The continuous measurements carried out in compliance with paragraph 2 shall include the relevant process operation parameters of oxygen content, temperature,

pressure and water vapour content. The continuous measurement of the water vapour content of the exhaust gases shall not be necessary, provided that the sampled exhaust gas is dried before the emissions are analysed.

Representative measurements, i.e. sampling and analysis, of relevant pollutants and process parameters as well as reference measurement methods to calibrate automated measurement systems shall be carried out in accordance with CEN standards as soon as they are available. If CEN standards are not available ISO standards, national or international standards which will ensure the provision of data of an equivalent scientific quality shall apply.

Continuous measuring systems shall be subject to control by means of parallel measurements with the reference methods at least every year.

6.

>TABLE>

The validated hourly and daily average values shall be determined from the measured valid hourly average values after having subtracted the value of the confidence interval specified above.

Any day in which more than three hourly average values are invalid due to malfunction or maintenance of the continuous measurement system shall be invalidated. If more than ten days over a year are invalidated for such situations the competent authority shall require the operator to take adequate measures to improve the reliability of the continuous monitoring system.

B. Determination of total annual emissions of combustion plants

Until and including 2003 the competent authorities shall obtain determination of the total annual emissions of SO₂ and NO_x from new combustion plants. When continuous monitoring is used, the operator of the combustion plant shall add up separately for each pollutant the mass of pollutant emitted each day, on the basis of the volumetric flow rates of waste gases. Where continuous monitoring is not in use, estimates of the total annual emissions shall be determined by the operator on the basis of paragraph A.1 to the satisfaction of the competent authorities.

~~Member States~~Contracting Parties shall communicate to the ~~Commission~~Secretariat the total annual SO₂ and NO_x emissions of new combustion plants at the same time as the communication required under paragraph C.3 concerning the total annual emissions of existing plants.

~~Member States~~Contracting Parties shall establish, starting in 2004 and for each subsequent year, an inventory of SO₂, NO_x and dust emissions from all combustion plants with a rated thermal input of 50 MW or more. The competent authority shall obtain for each plant operated under the control of one operator at a given location the following data:

- the total annual emissions of SO₂, NO_x and dust (as total suspended particles).
- the total annual amount of energy input, related to the net calorific value, broken down in terms of the five categories of fuel: biomass, other solid fuels, liquid fuels, natural gas, other gases.

A summary of the results of this inventory that shows the emissions from refineries separately shall be communicated to the ~~Commission~~Secretariat every three years within twelve months from the end of the three-year period considered. The yearly plant-by-plant data shall be made available to the ~~Commission~~Secretariat upon request. The ~~Commission~~Secretariat shall make available to the ~~Member States~~Contracting Parties a summary of the comparison and evaluation of the national inventories within twelve months of receipt of the national inventories.

Commencing on 1 January 2008 ~~Member States~~Contracting Parties shall report annually to the ~~Commission~~Secretariat on those existing plants declared for eligibility under Article 4(4) along with the record of the used and unused time allowed for the plants' remaining operational life.

C. Determination of the total annual emissions of existing plants until and including 2003.

1. ~~Member States~~Contracting Parties shall establish, starting in 1990 and for each subsequent year until and including 2003, a complete emission inventory for existing plants covering SO₂ and NO_x:

- on a plant by plant basis for plants above 300 MWth and for refineries;
- on an overall basis for other combustion plants to which this Directive applies.

2. The methodology used for these inventories shall be consistent with that used to determine SO₂ and NO_x emissions from combustion plants in 1980.

3. The results of this inventory shall be communicated to the ~~Commission~~Secretariat in a conveniently aggregated form within nine months from the end of the year considered. The methodology used for establishing such emission inventories and the detailed base information shall be made available to the ~~Commission~~Secretariat at its request.

4. The ~~Commission~~Secretariat shall organise a systematic comparison of such national inventories and, if appropriate, shall submit proposals to the Council aiming at harmonising emission inventory methodologies, for the needs of an effective implementation of this Directive.

ANNEX IX
TIME-LIMITS FOR TRANSPOSITION AND IMPLEMENTATION OF THE REPEALED
DIRECTIVE

(referred to in Article 17(1))

>TABLE>

ANNEX X
CORRELATION TABLE

(Referred to in Article 17(3))

>TABLE>