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THE EUROPEAN PARLIAMENT

THE COUNCIL

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REGULATION
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
AMENDING REGULATION (EC) NO 443/2009 TO DEFINE THE MODALITIES
FOR REACHING THE 2020 TARGET TO REDUCE CO₂ EMISSIONS
FROM NEW PASSENGER CARS

REGULATION (EU) No .../2014
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 11 March 2014

amending Regulation (EC) No 443/2009
to define the modalities for reaching the 2020 target
to reduce CO₂ emissions from new passenger cars

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure²,

¹ OJ C 44, 15.2.2013, p. 109.

² Position of the European Parliament of 25 February 2014 (not yet published in the Official Journal) and decision of the Council of 10 March 2014.

Whereas:

- (1) Pursuant to Article 13(5) of Regulation (EC) No 443/2009 of the European Parliament and of the Council¹ the Commission is to review the modalities of achieving the 95 g CO₂/km target by 2020 in a cost-effective manner, including the formulae set out in Annex I to that Regulation and the derogations provided for in Article 11 thereof. It is appropriate that this Regulation be as neutral as possible from the point of view of competition, socially equitable and sustainable.
- (2) The further development of the worldwide market for advanced technologies aimed at improving the efficiency of passenger cars is in line with the Commission's Communication of 21 January 2011 entitled: 'A resource-efficient Europe - Flagship initiative under the Europe 2020 strategy', which supports the shift to a resource-efficient, low-carbon economy for achieving sustainable growth.
- (3) It is appropriate to clarify that, for the purpose of verifying compliance with the target of 95 g CO₂/km, CO₂ emissions should continue to be measured in accordance with Regulation (EC) No 715/2007 of the European Parliament and of the Council² and its implementing measures and innovative technologies.

¹ Regulation (EC) No 443/2009 of the European Parliament and of the Council of 23 April 2009 setting emission performance standards for new passenger cars as part of the Community's integrated approach to reduce CO₂ emissions from light-duty vehicles (OJ L 140, 5.6.2009, p. 1).

² Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information (OJ L 171, 29.6.2007, p.1).

- (4) High fossil fuel prices have a negative impact on economic recovery and on energy security and affordability in the Union. Increasing, therefore, the efficiency and sustainability of new passenger cars and light commercial vehicles, thus reducing the dependency on oil, is a priority.
- (5) In recognition of the high research and development and unit production costs of early generations of ultra-low emission vehicles, it is appropriate to accelerate and facilitate, on an interim basis and to a limited extent, the process of their introduction into the Union market at their initial stages of commercialisation. Actors at different levels should give appropriate attention to identifying and disseminating best practices for stimulating demand for ultra-low emission vehicles.
- (6) The lack of alternative fuel infrastructure and of common technical specifications for the vehicle-infrastructure interface could be an obstacle to the market uptake of ultra-low emission vehicles. Ensuring the building-up of such infrastructure in the Union could facilitate the work of market forces and contribute to economic growth in Europe.

- (7) In recognition of the disproportionate impact on the smallest manufacturers resulting from compliance with specific emissions targets defined on the basis of the utility of the vehicle, the high administrative burden of the derogation procedure, and the marginal resulting benefit in terms of CO₂ emissions reduction from the vehicles sold by those manufacturers, manufacturers responsible for fewer than 1 000 new passenger cars registered in the Union annually should be excluded from the scope of the specific emissions target and the excess emissions premium. In order to ensure from the earliest point legal certainty for those manufacturers, it is essential that this derogation apply from 1 January 2012.
- (8) The procedure for granting a derogation to small-volume manufacturers should be simplified to allow for more flexibility in terms of when an application for a derogation is to be submitted by such manufacturers and when the Commission is to grant such a derogation.
- (9) The procedure for granting derogations to niche manufacturers should continue beyond 2020. However, in order to ensure that the reduction effort required by niche manufacturers is consistent with that of large volume manufacturers, a target 45 % lower than the average specific emissions of niche manufacturers in 2007 should therefore apply from 2020.

- (10) To enable the automotive industry to engage in long-term investment and innovation, it is desirable to provide indications as to how Regulation (EC) No 443/2009 should be amended for the period beyond 2020. Those indications should be based on an assessment of the necessary rate of reduction in line with the Union's long-term climate goals and the implications for the development of cost effective CO₂ reducing technology for cars. The Commission should, by 2015, review such aspects and submit a report to the European Parliament and to the Council on its findings. That report should include, where appropriate, proposals for amending Regulation (EC) No 443/2009 with a view to establishing CO₂ emission targets for new passenger cars beyond 2020, including the possible setting of a realistic and achievable target for 2025, based on a comprehensive impact assessment that will consider the continued competitiveness of the car industry and its dependent industries, while maintaining a clear emissions-reduction trajectory comparable to that achieved in the period up to 2020. When developing such proposals, the Commission should ensure they are as neutral as possible from the point of view of competition and are socially equitable and sustainable.

- (11) Under Regulation (EC) No 443/2009, the Commission is required to carry out an impact assessment in order to review the test procedures with a view to reflecting adequately the real CO₂ emissions behaviour of cars. There is a need to amend the currently used "New European Driving Cycle" (NEDC), to ensure its representativeness regarding real driving conditions and to avoid the underestimation of real CO₂ emissions and fuel consumption. A new, more realistic and reliable test procedure should be agreed as soon as feasible. Work in this direction is proceeding through the development of a Worldwide harmonized Light vehicles Test Procedure (WLTP) in the framework of the United Nations Economic Commission for Europe but has not yet been completed. In order to ensure that specific CO₂ emissions quoted for new passenger cars are brought more closely into line with the emissions actually generated during normal conditions of use, the WLTP should be applied at the earliest opportunity. In view of that context, Annex I to Regulation (EC) No 443/2009 establishes emission limits for 2020 as measured in accordance with Regulation (EC) No 715/2007 and Annex XII to Commission Regulation (EC) No 692/2008¹. When the test procedures are amended, the limits set in Annex I to Regulation (EC) No 443/2009 should be adjusted to ensure comparable stringency for manufacturers and classes of vehicles. Accordingly, the Commission should carry out a robust correlation study between the NEDC and the new WLTP test cycles to ensure its representativeness regarding real driving conditions.

¹ Commission Regulation (EC) No 692/2008 of 18 July 2008 implementing and amending Regulation (EC) No 715/2007 of the European Parliament and of the Council on type-approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information (OJ L 199, 28.7.2008, p. 1).

- (12) With a view to ensuring that real world emissions are adequately reflected, and measured CO₂ values are strictly comparable, the Commission should ensure that those elements in the testing procedure that have a significant influence on measured CO₂ emissions are strictly defined in order to prevent the utilisation of test cycle flexibilities by manufacturers. The deviations between type approval CO₂ emission values and emissions derived from vehicles offered for sale should be addressed, including by considering an in-service conformity test procedure that should ensure independent testing of a representative sample of vehicles for sale, as well as ways of addressing cases of demonstrated substantial divergence between survey and initial type approval CO₂ emissions.
- (13) The wording of Article 3(2) of Regulation (EC) No 443/2009 should be adjusted to ensure that the concept of connected undertakings is in line with Council Regulation (EC) No 139/2004¹ as well as with Article 3(2) of Regulation (EU) No 510/2011 of the European Parliament and of the Council².
- (14) Regulation (EC) No 443/2009 confers powers on the Commission to implement some of its provisions in accordance with the procedures laid down in Council Decision 1999/468/EC³. As a consequence of the entry into force of the Treaty of Lisbon, those powers need to be aligned to Articles 290 and 291 of the Treaty on the Functioning of the European Union (TFEU).

¹ Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) (OJ L 24, 29.1.2004, p. 1).

² Regulation (EU) No 510/2011 of the European Parliament and of the Council of 11 May 2011 setting emission performance standards for new light commercial vehicles as part of the Union's integrated approach to reduce CO₂ emissions from light-duty vehicles (OJ L 145, 31.5.2011, p. 1).

³ Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (OJ L 184, 17.7.1999, p. 23).

- (15) In order to ensure uniform conditions for the implementation of Regulation (EC) No 443/2009, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹.
- (16) The power to adopt acts in accordance with Article 290 of the TFEU should be delegated to the Commission in order to amend Annex II to Regulation (EC) No 443/2009 as regards data requirements and data parameters; supplement the rules on the interpretation of the eligibility criteria for derogations from the specific emissions targets, on the content of applications for a derogation and on the content and assessment of programmes for the reduction of specific emissions of CO₂; adjust the figure of M₀, referred to in Annex I to Regulation (EC) No 443/2009, to the average mass of new passenger cars in the previous three calendar years; and adapt the formulae in Annex I to Regulation (EC) No 443/2009. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

¹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55 of 28.2.2011, p. 13).

- (17) It is appropriate to retain the approach of setting the target based on a linear relationship between the utility of the car and its target CO₂ emissions as expressed by the formulae set out in Annex I to Regulation (EC) No 443/2009, since this allows the diversity of the passenger car market and the ability of manufacturers to address different consumer needs to be maintained, thus avoiding any unjustified distortion of competition.
- (18) In its impact assessment, the Commission assessed the availability of footprint data and the use of footprint as the utility parameter in the formulae set out in Annex I to Regulation (EC) No 443/2009. On the basis of that assessment, the Commission has concluded that the utility parameter used in the formula for 2020 should be mass. Nevertheless, the lower cost and merits of a change to footprint as the utility parameter should be considered in the future review.
- (19) Greenhouse gas emissions related to energy supply and vehicle manufacturing and disposal are significant components of the current overall road transport carbon footprint and are likely to significantly increase in importance in the future. Policy action should therefore be taken to guide manufacturers towards optimal solutions taking account of, in particular, greenhouse gas emissions associated with the generation of energy supplied to vehicles such as electricity and alternative fuels, and to ensure that those upstream emissions do not erode the benefits related to the improved operational energy use of vehicles aimed for under Regulation (EC) No 443/2009.

- (20) Since the objective of this Regulation, namely to define the modalities for reaching the 2020 target to reduce CO₂ emissions from new passenger cars, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (21) Regulation (EC) No 443/2009 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 443/2009 is amended as follows:

- (1) in Article 1, the second paragraph is replaced by the following:

'From 2020 onwards, this Regulation sets a target of 95 g CO₂/km for the average emissions of the new car fleet as measured in accordance with Regulation (EC) No 715/2007 and Annex XII to Regulation (EC) No 692/2008 and its implementing measures and innovative technologies.'

- (2) In Article 2, the following paragraph is added:

'4. With effect from 1 January 2012, Article 4, Article 8(4)(b) and (c), Article 9 and Article 10(1)(a) and (c) shall not apply to a manufacturer which, together with all of its connected undertakings, is responsible for fewer than 1 000 new passenger cars registered in the Union in the previous calendar year.'

- (3) In point (a) of Article 3(2), the first indent is replaced by the following:

'- the power to exercise more than half the voting rights; or'

(4) In Article 4, the second paragraph is replaced by the following:

'For the purposes of determining each manufacturer's average specific emissions of CO₂, the following percentages of each manufacturer's new passenger cars registered in the relevant year shall be taken into account:

- 65 % in 2012,
- 75 % in 2013,
- 80 % in 2014,
- 100 % from 2015 to 2019,
- 95 % in 2020,
- 100 % by the end of 2020 onwards.'

(5) The following Article is inserted:

'Article 5a

Super-credits for 95 g CO₂/km target

In calculating the average specific emissions of CO₂, each new passenger car with specific emissions of CO₂ of less than 50 g CO₂/km shall be counted as:

- 2 passenger cars in 2020,

- 1,67 passenger cars in 2021,
- 1,33 passenger cars in 2022,
- 1 passenger car from 2023,

for the year in which it is registered in the period from 2020 to 2022, subject to a cap of 7,5g CO₂/km over that period for each manufacturer.'

(6) In Article 8, paragraph 9 is replaced by the following:

- '9. The Commission shall adopt detailed rules on the procedures for monitoring and reporting of data under this Article and on the application of Annex II by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 14(2).

The Commission shall be empowered to adopt delegated acts in accordance with Article 14a in order to amend the data requirements and data parameters set out in Annex II.'

(7) In Article 9, paragraph 3 is replaced by the following:

- '3. The Commission shall determine the means for collecting excess emissions premiums under paragraph 1 by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 14(2).'

- (8) Article 11 is amended as follows:
- (a) in paragraph 3, the last sentence is deleted;
 - (b) in paragraph 4, point (b) of the second subparagraph is replaced by the following:
 - '(b) if the application is in relation to points (a) and (b) of point 1 of Annex I, a target which is a 25 % reduction on the average specific emissions of CO₂ in 2007 or, where a single application is made in respect of a number of connected undertakings, a 25 % reduction on the average of those undertakings' average specific emissions of CO₂ in 2007.';
 - (c) in paragraph 4, second subparagraph, the following point is added:
 - '(c) if the application is in relation to point (c) of point 1 of Annex I, a target which is a 45 % reduction on the average specific emissions of CO₂ in 2007 or, where a single application is made in respect of a number of connected undertakings, a 45 % reduction on the average of those undertakings' average specific emissions of CO₂ in 2007.';
 - (d) paragraph 8 is replaced by the following:
 - '8. The Commission shall be empowered to adopt delegated acts in accordance with Article 14a laying down rules to supplement paragraphs 1 to 7 of this Article, as regards the interpretation of the eligibility criteria for derogations, the content of the applications, and the content and assessment of programmes for the reduction of specific emissions of CO₂.'.

(9) Article 12 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. Upon application by a supplier or a manufacturer, CO₂ savings achieved through the use of innovative technologies or a combination of innovative technologies ("innovative technology packages") shall be considered.

Such technologies shall be taken into consideration only if the methodology used to assess them is capable of producing verifiable, repeatable and comparable results.

The total contribution of those technologies to reducing the specific emissions target of a manufacturer may be up to 7 g CO₂/km.';

(b) in paragraph 2, the first sentence is replaced by the following:

'The Commission shall adopt, by means of implementing acts, detailed provisions for a procedure to approve the innovative technologies or innovative technology packages referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 14(2) of this Regulation.';

(c) paragraph 3 is replaced by the following:

'3. A supplier or a manufacturer who applies for a measure to be approved as an innovative technology or innovative technology package shall submit a report, including a verification report undertaken by an independent and certified body, to the Commission. In the event of a possible interaction of the measure with another innovative technology or innovative technology package already approved, the report shall mention that interaction and the verification report shall evaluate to what extent that interaction modifies the reduction achieved by each measure.'

(10) Article 13 is amended as follows:

(a) in paragraph 2, the third subparagraph is replaced by the following:

'The Commission shall, by means of delegated acts, adopt those measures in accordance with Article 14a.';

(b) the second subparagraph of paragraph 3 is deleted;

(c) paragraph 5 is replaced by the following:

'5. By 31 December 2015, the Commission shall review the specific emissions targets and the modalities set out herein, as well as the other aspects of this Regulation, including whether a utility parameter is still needed and whether mass or footprint is the more sustainable utility parameter, in order to establish the CO₂ emissions targets for new passenger cars for the period beyond 2020. In that regard, the assessment of the necessary rate of reduction shall be in line with the Union's long-term climate goals and the implications for the development of cost effective CO₂-reducing technology for cars. The Commission shall submit a report to the European Parliament and to the Council with the result of that review. That report shall include any appropriate proposals for amending this Regulation, including the possible setting of a realistic and achievable target, based on a comprehensive impact assessment that will consider the continued competitiveness of the car industry and its dependent industries. When developing such proposals, the Commission shall ensure they are as neutral as possible from the point of view of competition and are socially equitable and sustainable.';

(d) paragraph 7 is replaced by the following:

'7. The Commission shall, by means of implementing acts, determine the correlation parameters necessary in order to reflect any change in the regulatory test procedure for the measurement of specific CO₂ emissions referred to in Regulation (EC) No 715/2007 and Regulation (EC) No 692/2008. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 14(2) of this Regulation.

The Commission shall be empowered to adopt delegated acts in accordance with Article 14a in order to adapt the formulae set out in Annex I, using the methodology adopted pursuant to the first subparagraph, while ensuring that reduction requirements of comparable stringency for manufacturers and vehicles of different utility are required under the old and new test procedures.'

(11) Article 14 is replaced by the following:

'Article 14

Committee procedure

1. The Commission shall be assisted by the Climate Change Committee established by Article 9 of Decision No 280/2004/EC of the European Parliament and of the Council*. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council **.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.
3. Where the Committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

* Decision No 280/2004/EC of the European Parliament and of the Council of 11 February 2004 concerning a mechanism for monitoring Community greenhouse gas emissions and for implementing the Kyoto Protocol (OJ L 49, 19.2.2004, p. 1).

** Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).'

(12) The following Article is inserted:

'Article 14a

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adapt delegated acts referred to in the second subparagraph of Article 8(9), Article 11(8), the third subparagraph of Article 13(2) and the second subparagraph of Article 13(7) shall be conferred on the Commission for a period of five years from ...*. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in the second subparagraph of Article 8(9), Article 11(8), the third subparagraph of Article 13(2) and the second subparagraph of Article 13(7) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

* OJ: please insert the date of entry into force of this Regulation.

5. A delegated act adopted pursuant to the second subparagraph of Article 8(9), Article 11(8), the third subparagraph of Article 13(2) and the second subparagraph of Article 13(7) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.'

(13) In point 1 of Annex I, the following point is added:

'(c) From 2020:

$$\text{Specific emissions of CO}_2 = 95 + a \times (M - M_0)$$

Where:

M = mass of the vehicle in kilograms (kg)

M₀ = the value adopted pursuant to Article 13(2)

a = 0,0333.'

(14) Annex II is amended as follows:

(a) in point 1 of Part A, the following point is added:

'(n) maximum net power.';

(b) in the table 'Detailed data specified in point 1 of Part A', the following column is added:

'Maximum net power (kW)'.

Article 2

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Strasbourg,

For the European Parliament

The President

For the Council

The President