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2015/0301 (NLE)

Proposal for a

**COUNCIL DECISION**

**on the position to be adopted, on behalf of the European Union,  
in the EEA Joint Committee concerning an amendment to Annex XX (Environment) to  
the EEA Agreement  
(CO<sub>2</sub> Emissions)**

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

In order to ensure the requisite legal security and homogeneity of the Internal Market, the EEA Joint Committee is to integrate all the relevant EU legislation into the EEA Agreement as soon as possible after its adoption.

### 2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

The draft Decision of the EEA Joint Committee (annexed to the proposed Council Decision) aims to amend Annex XX (Environment) to the EEA Agreement in order to incorporate Regulations (EC) No 443/2009, (EU) No 1014/2010, (EU) No 63/2011, (EU) No 725/2011, (EU) No 429/2012, (EU) No 396/2013, (EU) No 397/2013, (EU) No 333/2014 and (EU) No 6/2015 into the EEA Agreement.

The EEA EFTA States are requesting adaptations which go above the level of mere technical adjustments.

#### **Justification of the main requested adaptations and proposed solution**

Regulation (EC) No 443/2009 establishes a system of emission performance standards for new passenger cars. The draft JCD extends the EU system to the EEA EFTA States, so that the system will encompass all the EEA States.

#### Excess emissions premiums, Article 9(1) of Regulation (EC) No 443/2009 as reflected in adaptation (i) in the JCD

An adaptation text has been included to the effect that it will be for the EFTA Surveillance Authority to impose excess emissions premiums on manufacturers in the EEA EFTA States.

Premiums will be imposed jointly for new passenger cars sold in the EU and the EEA EFTA States respectively. Consequently, the premiums need to be distributed between the EU/EFTA sides.

A distribution key is therefore suggested, so that the premiums are distributed proportionally based on the share of new passenger cars registered in the EU or in the EFTA States, respectively, relative to the total number of new passenger cars registered in the EEA.

#### Collection of excess emissions premiums, Article 9(3) of Regulation (EC) No 443/2009 as reflected in adaptation (j) in the JCD

Article 9(3) provides a legal basis for the Commission to establish methods for the collection of excess emissions premiums. Such methods were established by Commission Decision 2012/100/EU<sup>1</sup>. As there is a separate surveillance authority and surveillance system under the EEA Agreement, an adaptation text has been included for the EFTA Surveillance Authority to determine the means for collecting excess emissions premiums. These means shall be based on the Commission's means.

#### Allocation of excess emissions premiums, Article 9(4) of Regulation (EC) No 443/2009 as reflected in adaptation (k) in the JCD

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<sup>1</sup> Commission Decision 2012/100/EU of 17 February 2012 on a method for the collection of premiums for excess of CO<sub>2</sub> emissions from new passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council, OJ L 47, 18.2.2012, p. 71.

Article 9(4) states that the premiums shall be considered revenue for the general budget of the EU.

Consequently, an adaptation text has been included for the EFTA States to determine the allocation of the amounts of the excess emissions premium that correspond to the EFTA side.

Applicability of Regulation (EC) No 443/2009 to Liechtenstein as reflected in adaptation (n) in the JCD

The historically longstanding relationship between Liechtenstein and Switzerland is very close and heavily influenced by the Customs and Currency Treaty between the two countries (establishing a customs and currency union) which was concluded in 1923 (LGBI. 1923 No 24). The Customs and Currency Treaty with Switzerland also has a significant impact on the environmental and fiscal strategies of Liechtenstein. Many Swiss environmental provisions are, by way of the Customs and Currency Treaty, directly applicable in Liechtenstein or are implemented into Liechtenstein law on the basis of bilateral treaties between the two countries.

Against this background, Liechtenstein requests to be exempted from the application of Regulation (EC) No 443/2009, considering that by applying the Swiss emission performance scheme in Liechtenstein the aims set by the EU legislation will equally be achieved.

### **3. LEGAL ELEMENTS OF THE PROPOSAL**

Article 1(3) of Council Regulation (EC) No 2894/94 concerning arrangements for implementing the EEA Agreement provides that the Council establishes the position to be adopted on the Union's behalf on such Decisions, on a proposal from the Commission.

The Commission submits the Draft Decision of the EEA Joint Committee for adoption by the Council as the Union's position. The Commission would hope to be able to present it in the EEA Joint Committee at the earliest possible opportunity.

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the EEA Agreement  
(CO<sub>2</sub> Emissions)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) and Article 218(9) thereof,

Having regard to Council Regulation (EC) No 2894/94 of 28 November 1994 concerning arrangements for implementing the Agreement on the European Economic Area<sup>2</sup>, and in particular Article 1(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Agreement on the European Economic Area<sup>3</sup> ('the EEA Agreement') entered into force on 1 January 1994.
- (2) Pursuant to Article 98 of the EEA Agreement, the EEA Joint Committee may decide to amend, inter alia, Annex XX (Environment) to the EEA Agreement.
- (3) Regulation (EC) No 443/2009 of the European Parliament and of the Council<sup>4</sup> is to be incorporated into the EEA Agreement.
- (4) Commission Regulation (EU) No 1014/2010<sup>5</sup> is to be incorporated into the EEA Agreement.
- (5) Commission Regulation (EU) No 63/2011<sup>6</sup> is to be incorporated into the EEA Agreement.
- (6) Commission Implementing Regulation (EU) No 725/2011<sup>7</sup> is to be incorporated into the EEA Agreement.

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<sup>2</sup> OJ L 305, 30.11.1994, p. 6.

<sup>3</sup> OJ L 1, 3.1.1994, p. 3.

<sup>4</sup> 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 CO<sub>2</sub> emissions from light-duty vehicles, (OJ L 140, 5.6.2009, p. 1).

<sup>5</sup> Commission Regulation (EU) No 1014/2010 of 10 November 2010 on monitoring and reporting of data on the registration of new passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council, (OJ L 293, 11.11.2010, p. 15).

<sup>6</sup> Commission Regulation (EU) No 63/2011 of 26 January 2011 laying down detailed provisions for the application for a derogation from the specific CO<sub>2</sub> emission targets pursuant to Article 11 of Regulation (EC) No 443/2009 of the European Parliament and of the Council, (OJ L 23, 27.1.2011, p. 16).

<sup>7</sup> Commission Implementing Regulation (EU) No 725/2011 of 25 July 2011 establishing a procedure for the approval and certification of innovative technologies for reducing CO<sub>2</sub> emissions from passenger

- (7) Commission Implementing Regulation (EU) No 429/2012<sup>8</sup> is to be incorporated into the EEA Agreement.
- (8) Commission Implementing Regulation (EU) No 396/2013<sup>9</sup> is to be incorporated into the EEA Agreement.
- (9) Commission Regulation (EU) No 397/2013<sup>10</sup> is to be incorporated into the EEA Agreement.
- (10) Regulation (EU) No 333/2014 of the European Parliament and of the Council<sup>11</sup> is to be incorporated into the EEA Agreement.
- (11) Commission Delegated Regulation (EU) 2015/6<sup>12</sup> is to be incorporated into the EEA Agreement.
- (12) Regulation (EC) No 443/2009 repeals Decision No 1753/2000/EC of the European Parliament and of the Council<sup>13</sup> which is incorporated into the EEA Agreement and which is consequently to be repealed under the EEA Agreement.
- (13) Annex XX (Environment) to the EEA Agreement should be amended accordingly,
- (14) The position of the Union within the EEA Joint Committee should be based on the attached draft Decision,

HAS ADOPTED THIS DECISION:

#### *Article 1*

The position to be adopted, on behalf of the Union, within the EEA Joint Committee on the proposed amendment to Annex XX (Environment) to the EEA Agreement, shall be based on the draft Decision of the EEA Joint Committee attached to this Decision.

#### *Article 2*

This Decision shall enter into force on the date of its adoption.

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cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council, (OJ L 194, 26.7.2011, p. 19).

<sup>8</sup> Commission Implementing Regulation (EU) No 429/2012 of 22 May 2012 amending Regulation (EU) No 1014/2010 for the purpose of providing a common format for the notification of errors by manufacturers of passenger cars, (OJ L 132, 23.5.2012, p. 11).

<sup>9</sup> Commission Implementing Regulation (EU) No 396/2013 of 30 April 2013 amending Regulation (EU) No 1014/2010 as regards certain requirements for the monitoring of CO<sub>2</sub> emissions from new passenger cars, (OJ L 120, 1.5.2013, p. 1).

<sup>10</sup> Commission Regulation (EU) No 397/2013 of 30 April 2013 amending Regulation (EC) No 443/2009 of the European Parliament and of the Council as regards the monitoring of CO<sub>2</sub> emissions from new passenger cars, (OJ L 120, 1.5.2013, p. 4).

<sup>11</sup> Regulation (EU) No 333/2014 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 CO<sub>2</sub> emissions from new passenger cars, (OJ L 103, 5.4.2014, p. 15.)

<sup>12</sup> Commission Delegated Regulation (EU) 2015/6 of 31 October 2014 amending Annex I to Regulation (EC) No 443/2009 of the European Parliament and of the Council in order to take into account the evolution of the mass of new passenger cars registered in 2011, 2012 and 2013, (OJ L 3, 7.1.2015, p. 1).

<sup>13</sup> Decision No 1753/2000/EC of the European Parliament and of the Council of 22 June 2000 establishing a scheme to monitor the average specific emissions of CO<sub>2</sub> from new passenger cars, (OJ L 202, 10.8.2000, p. 1).

Done at Brussels,

*For the Council  
The President*