ANNEX 3

GUIDANCE ON SCRAPPING SCHEMES FOR VEHICLES

1. Introduction

In its response to the economic crisis the European Commission has presented in November 2008 the European Economic Recovery Plan, which was subsequently endorsed by the European Council in December 2008. This plan includes a number of measures designed for the automotive sector, including demand-side measures which aim at boosting the demand for new vehicles and assisting with the scrapping of older ones.

Several Member States have already introduced or are planning to introduce in the near future so-called "scrapping schemes", as listed in the attached table. These schemes allow for a financial benefit for scrapping an old vehicle provided that newer vehicle is acquired.

The Commission is committed to support the Member States that choose to introduce such schemes. It is willing to strengthen the coordination of national measures, as requested by the Member States at the ministerial meeting on 16 January 2009, with a view to ensuring full effectiveness of the measures and prevent distortion of the Internal Market.

This paper aims at giving practical guidance to Member States on how to design scrapping schemes for the vehicles and explaining the relevant Community legislation.

2. Guiding principles for the design of scrapping schemes to address the consequences of the economic crisis in the automotive sector

When designing scrapping schemes, the Member States should respect the following guiding principles:

- The schemes must be **non-discriminatory** with regard to the origin of the product concerned. In particular, they should avoid favouring only the sale of vehicles of domestic manufacturers. Moreover, the proposed schemes should not include cars characteristics which could discriminate against similar cars coming from other Member States. However, in order to prevent circumvention of the schemes Member States should be allowed to set additional requirements, including those relating to the place of registration of the vehicle.

- Such measures must be designed in such a way that all possible **circumventions** of the system are **to be avoided**. The measures shall be therefore conditional on presenting the evidence that the vehicle for which the incentive is being granted has been in fact destroyed and not subject to further re-sale. Member States may consider setting the requirements concerning the minimum period of the ownership of the vehicle to be scrapped.

- The schemes must be **compatible with the relevant Community legislation**, in particular concerning type-approval of vehicles which requires at present Euro 4/ Euro IV emission limit values.

  Where Member States choose to make reference to CO_2 emissions from cars benefitting from the scrapping scheme, they must not discriminate with regard to the origin of the product concerned.

  Moreover, Member States should consider the impact of the scrapping schemes on the existent recycling and recovery infrastructure for the end-of-life vehicles.

Without prejudice to any legal obligations, Member States are invited to **always notify** their scrapping schemes to the Commission in the interest of transparency and to avoid problems after a scheme has been put in place. The Commission commits to assess the scheme within 15 working days and to verify compliance with Directive 98/34/EC.

3. Background

a) Directive 98/34/EC

In accordance with Directive 98/34/EC, technical regulations have to be notified at a draft stage. Technical regulations include so-called de facto technical regulations which are inter alia "*technical specifications or other requirements or rules on services which are linked to fiscal or financial measures affecting the consumption of products or services by encouraging compliance with such technical specifications or other requirements or rules on services; technical specifications or other requirements or rules on services linked to national social security systems are not included*." (third indent of the second subparagraph of point 11 of Article 1 of Directive 98/34/EC).

In practice, scrapping schemes based on technical specifications which are linked to fiscal or financial measures affecting the consumption of products by encouraging compliance purchase of products with certain technical specifications (such as with respect to CO_2 emissions, Euro emission standards etc.) constitute *de facto* technical regulations and have to be notified to the Commission (which subsequently circulates them to all Member States) at a draft stage according to Article 8 of this Directive.

However, according to Article 10(4) of Directive 98/34/EC no standstill period is laid down for the adoption of technical specifications, ‘other requirements’ or rules on services linked to fiscal or financial measures by Member States. However, the Commission and Member State have the right to issue comments on the notified technical specifications and to issue a so-called detailed opinion where the measure envisaged may create obstacles to the free movement of goods within the internal market. With regard to fiscal or financial incentives such comments or detailed opinions may only concern aspects "*which may hinder trade […] and not the fiscal or financial aspects of the measure*" (Article 8, point 1, last paragraph).

Attention should be drawn to the judgment of 30 April 1996, in which the European Court of Justice established that the breach of the notification obligation renders the adopted technical regulation inapplicable vis-à-vis third parties. In its judgment, the Court ruled that Articles 8 and

9 of Directive 83/189/EEC (today Articles 8 and 9 of Directive 98/34/EC): "*are to be interpreted as meaning that individuals may rely upon them before the national court which must decline to apply a national technical regulation which has not been notified in accordance with the directive*." ("CIA Security", Case C-194/94, ECR 1996 I-2201).

b) State aid

Measures that are only targeted at private individuals and which do not discriminate with regard to the origin of the product do not raise State aid concerns.

Measures that are genuinely open to all undertakings active in a Member State do not constitute State aid.

Measures that are open only to certain undertakings can constitute State aid and need to be notified under State aid rules[1] unless they meet the criteria under the relevant *de minimis* regulation[2]. Aid notifiable shall not be put into effect before the Commission has taken or is deemed to have taken, a decision authorising such aid.

---

[1] Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 (now Article 88) of the EC Treaty, Official Journal L 83, 27.03.1999, p. 1-9; Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty, Official Journal L 140, 30.04.2004, p. 1-134.

[2] Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to de minimis aid, Official Journal L 379, 28.12.2006; Commission Regulation (EC) No 1535/2007 of 20 December 2007 on the application of Articles 87 and 88 of the EC Treaty to de minimis aid in the sector of agricultural production, Official Journal L 337, 21.12.2007, p. 35-41; Commission Regulation (EC) No 875/2007 of 24 July 2007 on the application of Articles 87 and 88 of the EC Treaty to de minimis aid in the fisheries sector and amending Regulation (EC) No 1860/2004, Official Journal L 193, 25.07.2007, p. 6-12.

SCRAPPING SCHEMES IN THE EUROPEAN UNION

Country	Incentive	Vehicle age	Parameters	Duration
Austria	€ 1 500	> 13 years	- new car minimum Euro 4 - dealers pay 50% of the incentive - total envelope € 45 m	01.04.2009-31.12.2009
Cyprus	€ 257-1 710	> 15 years	- € 257 for scrapping vehicle with valid registration in Cyprus for the past 10 years - € 684 for scrapping vehicle with valid road tax in the last year - € 1 283 as above + replacement with new vehicle of fuel consumption < 7 l/100 km or the purchase/registration of a motorcycle. - € 1 710 as above + replacement with new vehicle of fuel consumption < 5 l/100 km	2 months The scheme run twice in 2008 and is currently running for the 3rd time since January 2009
France	€ 1 000	> 10 years	- new car emits maximum 160 g/km CO_2 - new light commercial vehicle minimum Euro 4 - estimated cost € 220 m	04.12.2008-31.12.2009
Germany	€ 2 500	> 9 years	- new car (or max. 1 year old) Euro 4 - total envelope €1.5 billion	14.01.2009-31.12.2009
Italy	as from € 1,500 (cars) as from € 2,500 (LCVs)	> 9 years	- new car minimum Euro 4 and emits maximum 140 g/km (petrol) or 130 g/km (diesel) CO_2 - new LCV minimum Euro 4 - scrapping incentive can be combined with purchase incentive for vehicles with innovative technologies	11.02.2009-31.12.2009

Luxembourg	€ 1 500- 2 500	> 10 years	- new car minimum Euro 4 (diesel car ≤ 5 mg/km PM) - € 1 500 if new car emits maximum 150 g/km CO_2 - € 2 500 (including bonus of 750 € for purchase of low CO_2 vehicle) if new car emits maximum 120 g/km CO_2 (in some cases 160 g/km CO_2)	01.01.2009- 31.12.2009
Portugal	€ 1 000 € 1 250	> 10 years > 15 years	- new car emits maximum 140 g/km CO_2 - extension of the system considered	01.01.2009- 31.12.2009
Romania	€ 850	> 10 years	- maximum number of cars scrapped 60 000	01.02.2009- 31.12.2009
Spain	Interest-free loan up to € 10 000	> 10 years or > 250 000 km	- new car maximum value € 30 000 - new car emits maximum 140 g/km CO_2 - new light commercial vehicle emits maximum 160 g/km CO_2 - also applicable to purchase of an used car (max. 5 years old) provided the scrapped car is at least 15 years old	01.12.2008- 31.07.2010