



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 14 November 2012

16146/12

ENV 851
ENT 288
DELECT 50

COVER NOTE

from: Secretary-General of the European Commission,
 signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 6 November 2012

to: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European
 Union

No Cion doc.: C(2012) 7759 final

Subject: Commission Delegated Regulation (EU) No .../. of 6.11.2012 supplementing
 Regulation (EU) No 510/2011 of the European Parliament and of the Council
 with regard to rules for the application for a derogation from the specific CO2
 emissions targets for new light commercial vehicles

Delegations will find attached Commission document C(2012) 7759 final.

Encl.: C(2012) 7759 final



Brussels, 6.11.2012
C(2012) 7759 final

COMMISSION DELEGATED REGULATION (EU) No .../..

of 6.11.2012

supplementing Regulation (EU) No 510/2011 of the European Parliament and of the Council with regard to rules for the application for a derogation from the specific CO₂ emissions targets for new light commercial vehicles

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Article 11(7) of Regulation (EU) No 510/2011 concerning light commercial vehicles (vans) provides that the Commission shall adopt rules to supplement that Regulation on the interpretation of the eligibility criteria for derogations, on the content of applications, and on the content and assessment of programmes for the reduction of specific emissions of CO₂, by means of delegated act.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The draft Commission Delegated Regulation has been presented and discussed in the group of experts for policy development and implementation of CO₂ from road vehicles on 9 July 2012.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The draft delegated act provides the format for the application for a derogation pursuant to Article 11 of Regulation (EU) No 510/2011, specifies the information to be provided on the eligibility criteria, defines the baseline to be used for the assessment of the proposed specific emissions target, and specifies the information to be submitted on the applicants reduction potential. The draft delegated act lays down detailed provisions for the assessment procedure of the proposed specific emissions target and reduction potential.

COMMISSION DELEGATED REGULATION (EU) No .../..

of 6.11.2012

supplementing Regulation (EU) No 510/2011 of the European Parliament and of the Council with regard to rules for the application for a derogation from the specific CO₂ emissions targets for new light commercial vehicles

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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 vehicles¹, and in particular Article 11(7) thereof,

Whereas:

- (1) According to Article 11 of Regulation (EU) No 510/2011 small-volume manufacturers (hereinafter "applicants") may apply for alternative emissions reduction targets that must be consistent with their reduction potential, including the economic and technological potential to reduce their specific emissions of CO₂, and take into account the characteristics of the market for the types of new light commercial vehicles concerned.
- (2) In determining the applicant's reduction potential, the applicant's economic and technological potential should be assessed. For that purpose the applicant should provide detailed information on its economic activities as well as information on CO₂ reducing technologies used in light commercial vehicles. The information requested includes data that is readily available to the applicant and should not entail an additional administrative burden.
- (3) In order to provide the applicants with a clear baseline to be used for setting the specific emissions targets, it is appropriate to use the most recent available data regarding average specific CO₂ emissions in 2010. Where those data do not exist the target should be compared to the data regarding average specific CO₂ emissions in the following calendar year closest to 2010.

¹ OJ L 145, 31.5.2011, p. 1.

- (4) In order to facilitate the application, a list of manufacturers and their average specific CO₂ emissions in the Union in 2010 should be provided. The list has been drawn up following a formal consultation with the Member States and the main stakeholders in the group of experts for policy development and implementation of CO₂ from road vehicles on 9 July 2012.
- (5) In order to take into account the limited amount of products offered by some applicants and resulting limited scope for distribution of the effort to reduce average specific CO₂ emissions over the fleet, the applicants should be allowed to choose between a single yearly specific emission target for the period of derogation or different yearly targets, resulting in a reduction from the 2010 baseline at the end of the derogation period.
- (6) In accordance with the exception from the right to public access to documents set out in Article 4(2) of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents² certain information contained in the application for derogation should be exempted from public access where disclosure of this information would undermine the protection of commercial interest, in particular information on the applicant's product planning, expected costs and impacts on the profitability of the company. The decisions granting derogations will be published by the Commission on the Internet,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation specifies the information to be provided by applicants for the purpose of demonstrating that the conditions for a derogation pursuant to Article 11(1) of Regulation (EU) No 510/2011 are satisfied.

Article 2 *Definitions*

For the purposes of this Regulation, the following definitions shall apply in addition to the definitions set out in Articles 2 and 3 of Regulation (EU) No 510/2011:

- (1) 'applicant' means a manufacturer within the meaning of Article 11(1) of Regulation (EU) No 510/2011;
- (2) 'vehicle characteristics' means the features of the vehicle, including mass, its specific CO₂ emissions, the number of seats, engine performance, power to mass ratio and top speed;

² OJ L 145, 31.5.2001, p. 43.

- (3) 'characteristics of the market' means information on vehicle characteristics, and names and price ranges of light commercial vehicles directly competing with the vehicles for which a derogation is sought;
- (4) 'own production facility' means a manufacturing or assembly plant used solely by the applicant for the purpose of manufacturing or assembling new light commercial vehicles exclusively for that applicant, including, where relevant, light commercial vehicles which are intended for export;
- (5) 'own design centre' means a facility in which the whole vehicle is designed and developed, and which is under the control of and for the exclusive use of the applicant.

Article 3

Application for a derogation pursuant to Article 11(1) of Regulation (EU) No 510/2011

An application for a derogation pursuant to Article 11(1) of Regulation (EU) No 510/2011 shall be submitted by the applicant in accordance with the format specified in Annex I to this Regulation, and shall include the information set out in Article 4 and Article 5 of this Regulation.

Article 4

Information on eligibility criteria

The applicant shall provide the following information on the eligibility criteria:

- (a) information on the ownership structure of the manufacturer or group of connected manufacturers, together with the relevant declaration set out in Annex II;
- (b) the number of new light commercial vehicles officially registered in the Union in the three calendar years preceding the date of application for which the applicant is responsible, or where such data is not available, one of the following:
 - i. an estimate, based on verifiable data, of the number of new light commercial vehicles registered in the period referred to in the introductory phrase for which the applicant is responsible;
 - ii. if no light commercial vehicles were registered in the period referred to in the introductory phrase, the number of new light commercial vehicles registered in the last calendar year for which such data is available.

Article 5

Specific emissions target and reduction potential pursuant to Article 11(2) of Regulation (EU) No 510/2011

1. The applicant shall provide the average specific CO₂ emissions of its new light commercial vehicles registered in 2010, unless the average specific CO₂ emissions for that year are listed in Annex III. Where this information is not available, the

applicant shall provide the average specific CO₂ emissions of its new light commercial vehicles registered in the following calendar year closest to 2010.

2. The applicant shall provide the following information on its activities:
 - (a) for the calendar year preceding the date of application, the number of employees and the size of the production facility in square meters;
 - (b) the operational model of the production facility specifying which design and production activities are performed by the applicant and which are outsourced;
 - (c) in the case of a connected undertaking, if the technology is shared by the manufacturers, and which activities are outsourced ;
 - (d) for five calendar years preceding the date of application, the sales volumes, yearly turnover, net profit, and research and development spending on CO₂-reducing technologies, and in the case of a connected undertaking, the net transfers to the parent company;
 - (e) the characteristics of its market;
 - (f) the price list for all versions of light commercial vehicles to be covered by the derogation in the calendar year preceding the date of application, and the expected price list for the light commercial vehicles planned to be launched and to be covered by the derogation.

The information referred to in point (d) of the first subparagraph shall be accompanied by the official certified accounts, or shall be certified by an independent auditor.

3. The applicant shall provide the following information on its technological potential to reduce its specific emissions of CO₂:
 - (a) the list of CO₂ reducing technologies used in its light commercial vehicles deployed on the market in 2010 or, where those data are not available, for the following year closest to 2010, or in case of manufacturers planning to enter the market, for the year in which the derogation starts to apply;
 - (b) the list of CO₂ reducing technologies used in its light commercial vehicles under the programme for the reduction of specific emissions of CO₂ and the additional costs of these technologies for each vehicle version covered by the application.
4. The applicant shall, in accordance with its reduction potential, propose one of the following targets:
 - (a) a specific emissions target that ensures that the average specific emissions of CO₂ at the expiry of the derogation period are reduced in comparison to the average specific emissions of CO₂ referred to in paragraph 1;
 - (b) a yearly specific emissions target for each year of the derogation period that is determined so that the average specific CO₂ emissions during the whole

derogation period are reduced in comparison to the average specific emissions of CO₂ referred to in paragraph 1.

5. The specific emissions target or yearly specific emissions targets proposed by the applicant shall be accompanied by a programme for the reduction of specific emissions of CO₂ for the new fleet.

The programme for the reduction of specific emissions of CO₂ shall specify the following:

- (a) the timetable for introduction of CO₂ reducing technologies in the applicant's fleet;
 - (b) the estimated new light commercial vehicles registered in the Union per year for the period of the derogation and the expected average specific emissions of CO₂ and average mass;
 - (c) in the case of yearly specific emissions targets, yearly improvement of specific CO₂ emissions of the vehicle versions for which CO₂ reducing technologies are introduced.
6. The applicant's compliance with a specific emissions target or yearly specific emissions targets shall be assessed in accordance with Article 9 of Regulation (EU) No 510/2011 each year during the derogation period.

Article 6 *Assessment by the Commission*

1. Where the Commission has raised no objections within nine months of the official receipt of a complete application pursuant to Article 11(1) of Regulation (EU) No 510/2011 the relevant conditions for applying the derogation shall be deemed to be satisfied.

If the Commission finds that the application is incomplete, additional information may be requested. Where the additional information is not submitted within the time period specified in the request, the Commission may reject the application.

In the case of a rejection due to the incompleteness of the application or due to the Commission finding the proposed specific emissions target inconsistent with the applicant's reduction potential, the applicant may submit a completed or revised application for a derogation.

2. Applications shall be submitted in printed and electronic form. The printed version shall be sent to the Secretariat General of the European Commission, 1049 Brussels, Belgium, marked "Derogation under Regulation (EU) No 510/2011". The electronic version shall be sent to the functional mailbox specified in Annex I.
3. Where information contained in the application is found to be incorrect or inaccurate, the decision to grant a derogation shall be revoked.

Article 7
Public access to information

1. An applicant that considers that information submitted in the application should not be disclosed in accordance with Article 11(8) of Regulation (EU) No 510/2011 shall indicate this in the application and justify why disclosure would undermine the protection of the commercial interests of the applicant, including intellectual property.
2. The exception from the right to public access to documents set out in Article 4(2) of Regulation (EC) No 1049/2001 shall be deemed to apply to the following types of information:
 - (a) details of the programme for the reduction of specific emissions of CO₂ referred to in Article 5, and in particular details concerning the development of the applicants's product portfolio;
 - (b) expected impacts of CO₂ reducing technologies on the production costs, purchase prices of vehicles and profitability of the company.

Article 8

This Regulation shall enter into force on the 20th 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 Brussels, 6.11.2012

For the Commission
The President
José Manuel BARROSO

ANNEX I

Standard format of the application for a derogation to be submitted by manufacturers of light commercial vehicles meeting the criteria of Article 11(1) of Regulation (EU) No 510/2011

The electronic version of the application shall be sent to the following email address:

EC-CO2-LDV-IMPLEMENTATION@ec.europa.eu

1. NAME, ADDRESS AND CONTACT PERSON FOR THE MANUFACTURER OR GROUP OF CONNECTED MANUFACTURERS

| Name of manufacturer | Postal address | Contact person name | Contact person email | Contact person telephone number |
|----------------------|----------------|---------------------|----------------------|---------------------------------|
| | | | | |

2. NAME, ADDRESS AND CONTACT PERSON FOR THE MANUFACTURER'S EU REPRESENTATIVE (ONLY IN CASE IF A MANUFACTURER IS ESTABLISHED OUTSIDE THE EU)

| Name of the manufacturer's EU representative | Postal address | Contact person name | Contact person email | Contact person telephone number |
|--|----------------|---------------------|----------------------|---------------------------------|
| | | | | |

3. ELIGIBILITY CRITERIA

3.1. Is the applicant part of a group of connected manufacturers?

YES (declaration set out in Annex II to be attached)

NO

3.2. Is the applicant part of a group of connected manufacturers but operates its own production facilities and design centre?

YES (declaration set out in Annex II to be attached; see point 3.3)

NO (see point 3.4 and 3.5)

3.3. Number of new light commercial vehicles registered in the Union if the application refers to an unconnected manufacturer or connected manufacturer that operates its own production facilities and own design centre:

3.3.1. Official figure in three calendar years preceding the date of application

| | | | |
|--------------------------------|--|--|--|
| Year | | | |
| Number of new EU registrations | | | |

3.3.2. Where the official figure referred to in point 3.3.1 is not available for the period referred to therein, an estimate based on verifiable data

| | | | |
|--------------------------------|--|--|--|
| Year | | | |
| Number of new EU registrations | | | |

3.3.3. Where the figures in point 3.3.1 and 3.3.2 are not available for that period, the figures for the last calendar year for which such data is available

| | |
|--------------------------------|--|
| Year | |
| Number of new EU registrations | |

3.4. If the application refers to a group of connected manufacturers please provide the following:

| Names of manufacturers | Postal Address | Contact person name | Contact person email | Contact person telephone number |
|------------------------|----------------|---------------------|----------------------|---------------------------------|
| | | | | |

3.5. Number of new light commercial vehicles registered in the Union of a group of connected manufacturers if the application refers to a group of connected manufacturers and the applicant does not operate its own production facilities and own design centre:

3.5.1. Official figure in three calendar years preceding the date of application

| | | | |
|--------------------------------|--|--|--|
| Year | | | |
| Number of new EU registrations | | | |

3.5.2. Where the official figure referred to in point 3.5.1 is not available for the period referred to therein, an estimate based on verifiable data

| | | | |
|--------------------------------|--|--|--|
| Year | | | |
| Number of new EU registrations | | | |

3.5.3. *Where the figures in point 3.5.1 and 3.5.2 are not available for that period, the figure for the last calendar year for which such data is available*

| | |
|--------------------------------|--|
| Year | |
| Number of new EU registrations | |

4. REQUESTED DURATION OF THE DEROGATION

| | |
|---|--|
| Number of calendar years (maximum 5) | |
|---|--|

5. PROPOSAL FOR A SPECIFIC EMISSIONS TARGET CALCULATED AS FLEET AVERAGE FOR THE PERIOD OF DEROGATION OR SEPARATE SPECIFIC EMISSIONS TARGETS IN CASE OF YEARLY REDUCTIONS (IN G CO₂/KM)

| | | | | | |
|--|--|--|--|--|--|
| Year | | | | | |
| Average specific emission target (g CO ₂ /km) | | | | | |

6. COMPANY SPECIFIC INFORMATION

6.1. Average specific emissions of CO₂ in 2010 if not included in Annex III (or if not available in the following calendar year closest to 2010)

6.2. Number of employees in the calendar year preceding the date of application

6.3. Size of the production facility in square meters in the calendar year preceding the application

6.4. Sales volumes for 5 years preceding the date of application

| | | | | | |
|---------------|--|--|--|--|--|
| Year | | | | | |
| Sales volumes | | | | | |

6.5. Yearly turnover for 5 years preceding the date of application

| | | | | | |
|----------|--|--|--|--|--|
| Year | | | | | |
| Turnover | | | | | |

6.6. Characteristics of the market

Information on planned products, not available on the market at the time of the application, should be provided in the confidential section of this application.

- (a) the vehicle characteristics;
- (b) the names and price ranges of directly competing vehicles in the year preceding the date of application;
- (c) the price list of vehicles that are to be covered by the derogation in the calendar year preceding the date of application or in the closest year to the date of application.

6.7. Brief description of the operational model of the production facility

CONFIDENTIAL SECTION OF THE APPLICATION

6.8. Net profit for 5 years preceding the date of application

| | | | | | |
|------------|--|--|--|--|--|
| Year | | | | | |
| Net profit | | | | | |

6.9. Research and development spending on CO2-reducing technologies over 5 years preceding the date of application

| | | | | | |
|--------------|--|--|--|--|--|
| Year | | | | | |
| R&D spending | | | | | |

6.10. Net financial transfers to the parent company in case of connected undertakings during 5 years preceding the date of application

| | | | | | |
|---------------|--|--|--|--|--|
| Year | | | | | |
| Net transfers | | | | | |

7. DETAILS OF THE LIGHT COMMERCIAL VEHICLES TO BE LAUNCHED ON THE UNION MARKET FOR WHICH THE APPLICANT WILL BE RESPONSIBLE

7.1. Characteristics of the market

7.1.1. Vehicle characteristics;

7.1.2. Names and price ranges of directly competing vehicles in the year preceding the date of application;

7.1.3. Expected price list of vehicles to be covered by the derogation.

8. APPLICANT'S TECHNOLOGICAL POTENTIAL TO REDUCE ITS SPECIFIC EMISSIONS OF CO₂

8.1. List of CO₂ reducing technologies deployed in the applicant's fleet in 2010;

8.2. Where the list referred to in point 8.1 is not available, the list for the following year closest to 2010;

8.3. In case of applicant's planning to enter the Union market, the list referred to in point 8.1 should be provided for the first year of the derogation.

9. APPLICANT'S PROGRAMME FOR THE REDUCTION OF SPECIFIC EMISSIONS OF CO₂

9.1. Timetable for deployment of CO₂ reducing technologies in the fleet;

9.2. Expected fleet average during the period of derogation:

9.2.1. Union registrations of new light commercial vehicles per year during the period of derogation,

9.2.2. Expected average mass of vehicles to be launched on the Union market, their power of the engines and information on power train configuration,

9.2.3. Expected average specific CO₂ emissions of vehicles to be launched on the Union market;

9.3. CO₂ reducing technologies to be deployed in the applicant's fleet under the programme for the reduction of specific emissions of CO₂ ;

9.4. The additional costs per vehicle version of the technologies to be deployed as part of the programme for the reduction of specific emissions of CO₂ ;

9.5. In the case of yearly targets, yearly improvement of specific CO₂ emissions of the vehicle versions for which CO₂ reducing technologies are introduced.

ANNEX II

Standard format of the declaration stating the structure of ownership

Article 11(1)(a) of Regulation (EU) No 510/2011

I hereby declare that I am legally empowered to represent [name] (the manufacturer) applying for a derogation as foreseen in Article 11(1) of Regulation (EU) No 510/2011 which is not part of a group of connected manufacturers as defined in Article 3(2) thereof. To the best of my knowledge the [name] (the manufacturer) is eligible to apply for a derogation as foreseen in Article 11(1) of Regulation (EU) No 510/2011 and the information contained in the application is true and accurate. Information on the ownership structure of [name] (the manufacturer) is annexed.

Signature Date

Director of [manufacturer]

Article 11(1)(b) of Regulation (EU) No 510/2011

I hereby declare that I am legally empowered to represent [name] (the manufacturer) applying for a derogation as foreseen in Article 11(1) of Regulation (EU) No 510/2011 which is part of a group of connected manufacturers as defined in Article 3(2) thereof. To the best of my knowledge the [name] (the manufacturer) is eligible to apply for a derogation as foreseen in Article 11(1) of Regulation (EU) No 510/2011 and the information contained in the application is true and accurate. Information on the ownership structure of [name] (the manufacturer) is annexed.

Signature Date

Director of [manufacturer]

Article 11(1)(c) of Regulation (EC) No 510/2011

I hereby declare that I am legally empowered to represent [name] (the manufacturer) applying for a derogation as foreseen in Article 11 of Regulation (EU) No 510/2011 which is part of a group of connected manufacturers as defined in Article 3(2) thereof but operates its own production facilities and design centre centre as defined in Article 2 of Commission Delegated Regulation (EU) No [...]. To the best of my knowledge the [name] (the manufacturer) is eligible to apply for a derogation as foreseen in Article 11(1) of Regulation (EU) No 510/2011 and the information contained in the application is true and accurate. Information on the ownership structure of [name] (the manufacturer) is annexed.

Signature Date

Director of [manufacturer]

ANNEX III

List of Union average specific CO₂ emissions in 2010 per manufacturer

| Make | Average emissions, (g/km) |
|-----------------|------------------------------|
| Citroen | 158,96 |
| Dacia | 154,13 |
| Fiat | 159,99 |
| Ford | 202,00 |
| Giotti victoria | 167,59 |
| Great wall | 190,13 |
| Hyundai | 219,73 |
| Isuzu | 223,86 |
| Iveco | 229,05 |
| Jeep | 240,17 |
| Kia | 193,29 |
| Land rover | 276,93 |
| LDV | 234,60 |
| Mazda | 247,08 |
| Mercedes | 226,29 |
| Mitsubishi | 221,87 |
| Mitsubishi fuso | 286,83 |
| Nissan | 214,11 |
| Opel | 183,30 |
| Peugeot | 156,84 |
| Piaggio | 135,85 |
| Renault | 165,47 |
| Renault trucks | 250,11 |
| Skoda | 136,13 |
| Ssangyong | 222,72 |
| Tata | 223,00 |
| Toyota | 215,41 |
| Vauxhall | 162,09 |
| Volkswagen | 193,43 |
| Volvo | 186,40 |