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II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION 2013/450/CFSP

of 22 July 2013

on the signing and conclusion of the Agreement between the European Union and the Republic of Niger on the status of the European Union CSDP mission in Niger (EUCAP Sahel Niger)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 37 thereof, in conjunction with Article 218(5) and (6) of the Treaty on the Functioning of the European Union,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 1 June 2012, the Prime Minister of the Republic of Niger addressed to the High Representative of the Union for Foreign Affairs and Security Policy (HR) an invitation letter authorising the deployment of the European Union CSDP mission in Niger (EUCAP Sahel Niger) and granting privileges and immunities, with a view to ensuring effective fulfilment of the mission on a unilateral basis, pending the conclusion of a detailed agreement between the European Union and the Republic of Niger on the legal status of the mission and of its staff.
- (2) On 16 July 2012, the Council adopted Decision 2012/392/CFSP on the European Union CSDP mission in Niger (EUCAP Sahel Niger) ⁽¹⁾.
- (3) Article 8 of Decision 2012/392/CFSP provides that the status of EUCAP Sahel Niger and of its staff, including, where appropriate, the privileges, immunities and further guarantees necessary for the completion and smooth functioning of EUCAP Sahel Niger, be the subject of an agreement concluded pursuant to Article 37 of the Treaty on European Union (TEU) and in accordance with the procedure laid down in Article 218 of the Treaty on the Functioning of the European Union.

- (4) Following the adoption of a Decision by the Council on 26 July 2012 authorising the opening of negotiations, the HR, negotiated, in accordance with Article 37 TEU an Agreement between the European Union and the Republic of Niger on the status of the European Union CSDP mission in Niger (EUCAP Sahel Niger) ('the Agreement').

- (5) The Agreement should be approved,

HAS ADOPTED THIS DECISION:

Article 1

The Agreement between the European Union and the Republic of Niger on the status of the European Union CSDP mission in Niger (EUCAP Sahel Niger) is hereby approved on behalf of the Union.

The text of the Agreement is attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement in order to bind the Union.

Article 3

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

Done at Brussels, 22 July 2013.

For the Council
The President
C. ASHTON

⁽¹⁾ OJ L 187, 17.7.2012, p. 48.

TRANSLATION

AGREEMENT

between the European Union and the Republic of Niger on the status of the European Union mission in Niger CSDP (EUCAP Sahel Niger)

THE EUROPEAN UNION, hereinafter referred to as 'the EU',

of the one part, and

THE REPUBLIC OF NIGER, hereinafter referred to as 'Niger'

of the other part,

Together hereinafter referred to as 'the Parties',

TAKING INTO ACCOUNT:

— the invitation letter by Prime Minister Brigi Rafini of 1 June 2012;

— Council Decision 2012/392/CFSP of 16 July 2012 on the European Union CSDP mission in Niger (EUCAP Sahel Niger) ⁽¹⁾;

— that this Agreement will not affect the Parties' rights and obligations under international agreements and other instruments establishing international courts and tribunals, including the Statute of the International Criminal Court,

HAVE AGREED AS FOLLOWS:

*Article 1***Scope and definitions**

1. This Agreement shall apply to the European Union mission and its personnel.

2. This Agreement shall apply only within the territory of Niger.

3. For the purposes of this Agreement:

(a) 'EUCAP' shall mean the EU CSDP mission in Niger to support the capacity building of the Nigerien security actors to fight terrorism and organised crime (EUCAP Sahel Niger), established by the Council of the EU by Decision 2012/392/CFSP, including its components, forces, units, headquarters and personnel deployed in the territory of Niger and assigned to EUCAP;

(b) 'head of mission' shall mean the head of mission of EUCAP;

(c) 'European Union (EU)' shall mean the permanent bodies of the EU and their staff;

(d) 'EUCAP personnel' shall mean the head of mission, personnel seconded by EU Member States and EU institutions and non-EU States invited by the EU to participate in EUCAP, international staff recruited on a contractual basis by EUCAP deployed for the preparation, support and implementation of the mission, and personnel on mission for a Sending State or an EU institution or the European External Action Service (EEAS) in the framework of the mission. It shall not include commercial contractors or staff employed locally;

(e) 'Headquarters' shall mean the EUCAP main headquarters;

(f) 'Sending State' shall mean any EU Member State or non-EU State that has seconded personnel to EUCAP;

(g) 'Facilities' shall mean all buildings, premises and land required for the conduct of the activities of EUCAP, as well as for the accommodation of EUCAP personnel;

⁽¹⁾ OJ L 187, 17.7.2012, p. 48.

- (h) 'Personnel employed locally' shall mean personnel who are nationals of or holders of a permanent resident permit in Niger;
- (i) 'Contractor' shall mean any person supplying to EUCAP goods or services related to the mission's activities.
- (j) 'EUCAP means of transport' shall mean all vehicles and other means of transport owned, hired or chartered by EUCAP;
- (k) 'EUCAP assets' shall mean equipment, including means of transport, and consumer goods necessary for EUCAP Niger.

Article 2

General provisions

1. EUCAP and EUCAP personnel shall respect the laws, including customary laws, and regulations of Niger and shall refrain from any action or activity incompatible with the objectives of the mission.
2. EUCAP shall be autonomous with regard to the execution of its functions under the present Agreement. Niger shall respect the unitary and international nature of EUCAP.
3. The head of mission shall regularly inform the Government of the Republic of Niger of the number of EUCAP personnel stationed within Nigerien territory.

Article 3

Identification

1. EUCAP personnel shall be identified by distinctive EUCAP identification cards, which they shall be obliged to carry with them at all times. These cards shall be issued by the Ministry of Foreign Affairs at EUCAP's request.
2. EUCAP's means of transport shall bear distinctive EUCAP identification markings, an example of which shall be provided to the relevant authorities of Niger, and specific licence plates issued by the relevant authorities of Niger.
3. EUCAP shall have the right to display the flag of the EU at its headquarters and elsewhere, alone or together with the flag of Niger, as decided by the head of mission. National flags or insignia of the constituent national elements of EUCAP may be displayed on EUCAP premises and uniforms, as decided by the head of mission.

Article 4

Border crossing and movement within the territory of the Republic of Niger

1. EUCAP personnel and EUCAP assets shall cross the border of Niger at official border crossings and via the international air corridors.
2. Niger shall facilitate the entry into and exit from its territory for EUCAP and EUCAP personnel. Except for passport control on entry into and departure from the territory of Niger, EUCAP personnel with proof of membership of the mission shall be exempt from immigration regulations within the territory of Niger. Visas shall be issued free of charge to the members of the mission for a period of one year.
3. EUCAP personnel shall be exempt from the regulations of Niger governing the registration and control of aliens, but shall not acquire any right to permanent residence or domicile within the territory of Niger.
4. EUCAP assets which enter, transit or exit the territory of Niger shall be exempt from all authorisations for import, transit or export and from all customs charges and duties other than charges for storage, transport and other services rendered.
5. Aircraft used in support of the mission shall not be subject to local licensing or registration requirements. Relevant international standards and regulations shall continue to apply. If required, supplementary arrangements as referred to in Article 19 shall be concluded. However, vehicles must be covered by third-party liability insurance at least.
6. EUCAP personnel may drive motor vehicles, navigate vessels and operate aircraft within the territory of Niger provided they have valid national or international driving licences, shipmaster certificates or pilot licences, as appropriate. Niger shall accept as valid, without tax or fee, driving licences carried by EUCAP personnel.
7. EUCAP and EUCAP personnel, together with their assets, shall enjoy free and unrestricted movement in the areas in which they carry out their activities, which will be determined by common agreement with the relevant Nigerien authorities. If necessary, supplementary arrangements may be concluded in accordance with Article 19.
8. For the purposes of the mission, when travelling on official duties, EUCAP personnel and local personnel employed by EUCAP, together with EUCAP's means of transport, shall be entitled to use roads, bridges, ferries, airports and ports. EUCAP shall not be exempt from tolls or reasonable charges for services requested and received, under the same conditions laid down for Nigerien personnel.

*Article 5***Privileges and immunities of EUCAP granted by Niger**

1. EUCAP's facilities shall be inviolable. Nigerien agents shall not enter them without the consent of the head of mission.
2. EUCAP's facilities and assets shall be immune from search, requisition, attachment or execution.
3. EUCAP and its assets, wherever located and by whomsoever held, shall enjoy immunity from every form of legal process.
4. EUCAP's archives and documents shall be inviolable at any time, wherever they may be.
5. EUCAP's official correspondence shall be inviolable. 'Official correspondence' means all correspondence relating to the mission and its functions.
6. EUCAP shall be exempt from all national, regional and communal dues, taxes and charges of a similar nature in respect of purchased and imported goods, services provided and facilities used by it for the purposes of the mission. EUCAP shall not be exempt from payment for services rendered.

*Article 6***Privileges and immunities of EUCAP personnel granted by Niger**

1. EUCAP personnel shall not be subject to any form of arrest or detention. If a competent Nigerien authority discovers a member of EUCAP's personnel in the act of committing an offence, that authority is authorised to detain the individual with a view either to performing an identity check within a reasonable period or to ensuring the individual's protection until the arrival of the relevant EUCAP authorities.
2. Papers, correspondence and assets of EUCAP personnel shall be inviolable, except in case of measures of execution which are permitted pursuant to paragraph 6.
3. EUCAP personnel shall enjoy immunity from the criminal jurisdiction of Niger, unless this is expressly waived by the competent authority. However, in the event of infringement of criminal law, the competent Nigerien authorities shall compile the necessary evidence which they shall make available to the EUCAP head of mission. The latter shall immediately take the necessary steps to return the member of staff concerned to his or her Sending State to face legal proceedings, provided that the decision to prosecute is a

sovereign matter for the jurisdiction of the Sending State. In such cases, the government of Niger shall be regularly informed of the progress of the legal proceedings instituted.

4. EUCAP personnel shall enjoy immunity from the civil and administrative jurisdiction of Niger in respect of words spoken or written and all acts performed by them in the exercise of their official functions. If any civil proceeding is instituted against EUCAP personnel before any court of Niger, the head of M = mission and the competent authority of the Sending States, the EEAS or the EU institution shall be notified immediately. Prior to initiation of the proceeding before the court, the head of M = mission shall certify in writing whether the act in question was committed by the staff member concerned in the exercise of his or her official functions. If the act was committed in the exercise of official functions, the proceeding shall not be initiated and the provisions of Article 16 shall apply. If the act was not committed in the exercise of official functions, proceedings may continue. The initiation of proceedings by EUCAP personnel shall preclude them from invoking immunity from jurisdiction in respect of any counterclaim directly connected with the principal claim.

5. EUCAP personnel shall not be obliged to give evidence as witnesses.

6. No measures of execution may be taken in respect of EUCAP personnel, except in the case where a civil proceeding not related to their official functions is instituted against them. Property of EUCAP personnel, which is certified by the head of mission to be necessary for the fulfilment of their official functions, shall be free from seizure for the satisfaction of a judgement, decision or order. In civil proceedings, EUCAP personnel shall not be subject to any restrictions on their personal liberty or to any other measures of constraint.

7. The immunity of EUCAP personnel from the jurisdiction of Niger shall not exempt them from the jurisdictions of the respective Sending States.

8. EUCAP personnel shall be exempt from social security provisions which may be in force in Niger.

9. EUCAP personnel shall be exempt from any form of taxation in Niger on the salary and emoluments paid to them by EUCAP or the Sending States, as well as on any income received from outside Niger.

10. EUCAP personnel shall be allowed to import, free of customs duty and tax, within six months of their arrival in Niger, personal effects in accordance with the rules in force in Niger.

11. The personal baggage of EUCAP personnel shall be exempt from inspection, unless there are serious grounds for considering that it contains articles that are not for the personal use of EUCAP personnel or for use by EUCAP, or articles the import or export of which is prohibited by the law or subject to quarantine regulations of Niger. Such inspection shall be conducted only in the presence of the EUCAP personnel concerned or of an authorised representative of EUCAP.

Article 7

Personnel employed locally

Personnel employed locally shall enjoy no privileges or immunities. However, Niger shall exercise its jurisdiction over such personnel in such a manner as not to interfere unduly with the performance of the functions of the mission.

Article 8

Discipline

The competent authorities of a Sending State shall have the right to exercise, on Nigerien territory, all disciplinary powers conferred on them by the law of the Sending State with regard to all EUCAP personnel subject to such law.

Article 9

Security

1. Niger shall guarantee the security of EUCAP personnel.
2. To that end, Niger shall take all necessary measures for the protection, safety and security of EUCAP and EUCAP personnel. Any specific provisions proposed by Niger shall be agreed with the head of mission before implementation. Niger shall permit, and support free of any charge, activities relating to the evacuation of EUCAP personnel for medical reasons. If required, supplementary arrangements as referred to in Article 19 shall be concluded.
3. EUCAP personnel designated by the head of mission, the list of whose names shall be notified to the relevant Nigerien authorities, may keep and carry weapons in the exercise of their functions.

Article 10

Uniform

1. EUCAP personnel shall wear national uniform or civilian dress with distinctive EUCAP identification. Civilian support personnel shall wear civilian dress with distinctive EUCAP identification.
2. The wearing of uniform shall be subject to rules issued by the H = head of M = mission.

Article 11

Cooperation and access to information

1. Niger shall provide full cooperation and support to EUCAP and EUCAP personnel. If required, supplementary arrangements as referred to in Article 19 shall be concluded.
2. The head of mission and the representative appointed by the Government of Niger shall consult regularly and take appropriate measures to ensure close and reciprocal liaison at every appropriate level. Niger may appoint a liaison officer to EUCAP.

Article 12

Support provided by Niger

1. Niger agrees, if requested, to assist EUCAP in finding suitable facilities.
2. Niger shall provide free of charge, if required and available, facilities which it owns, in so far as such facilities are requested for the conduct of EUCAP's administrative and operational activities.
3. Within its means and capabilities, Niger shall assist in the preparation, establishment, and execution of, and support for, the mission.
4. EUCAP shall have the necessary legal capacity under the laws and regulations of Niger in order to fulfil its mission, and in particular for the purpose of opening bank accounts and to acquire or dispose of movable property and to be party to legal proceedings.
5. The law applicable to contracts concluded by EUCAP in Niger shall be determined by the respective contracts.

Article 13

Change to state-owned facilities

1. EUCAP shall be authorised to construct, alter or otherwise modify facilities [which are the property of the Nigerien state] as required for its operational requirements in connection with the relevant structures.
2. Niger shall not claim any compensation from EUCAP in respect of those constructions, alterations or modifications.

Article 14

Deceased EUCAP personnel

1. The head of mission shall have the right to take charge of the repatriation of any deceased EUCAP personnel, as well of their personal property, and to make suitable arrangements for this purpose in accordance with the rules in force in Niger.

2. No autopsy shall be performed on any deceased members of EUCAP without the agreement of the State concerned, and the presence of a representative of EUCAP or a representative of the State concerned.

3. Niger and EUCAP shall cooperate to the fullest extent possible with a view to the early repatriation of deceased EUCAP personnel.

Article 15

Communications

1. EUCAP may install and operate radio sending and receiving stations, as well as satellite systems, for the purposes of its mission, in accordance with the rules in force in Niger and in liaison with the relevant departments. It shall cooperate with the competent Nigerien authorities with a view to avoiding conflicts in the use of appropriate frequencies. Niger shall grant access to the frequency spectrum free of charge.

2. EUCAP shall enjoy the right to unrestricted communication by radio (including satellite, mobile and hand-held radio), telephone, telegraph, facsimile and other means, as well as the right to install the equipment necessary for the maintenance of such communications within and between EUCAP facilities, including the laying of cables and land lines for the purpose of the operation.

3. Within its facilities EUCAP may make the necessary arrangements for the conveyance of mail addressed to and from EUCAP and/or EUCAP personnel.

Article 16

Claims for death, injury, damage and loss

1. EUCAP and EUCAP personnel, the EU and the sending States shall not be liable for any damage to or loss of civilian or government property which is related to operational necessities or caused by activities in connection with civil disturbances or protection of EUCAP.

2. With a view to reaching an amicable settlement, claims for damage to or loss of civilian or government property not covered by paragraph 1, as well as claims for death of or injury to persons and for damage to or loss of EUCAP property, shall be forwarded to EUCAP via the competent Nigerien authorities, as far as claims brought by Nigerien natural or legal persons are concerned, or to the Nigerien competent authorities, as far as claims brought by EUCAP are concerned.

3. Where no amicable settlement can be found, the claim shall be submitted to a claims commission composed on an

equal basis of representatives of EUCAP and representatives of Niger. Settlement of claims shall be reached by common agreement.

4. Where no settlement can be reached within the claims commission, the dispute shall:

(a) for claims up to and including EUR 40 000, be settled by diplomatic means between Niger and the EU representative;

(b) for claims above the amount referred to in point (a), be submitted to an arbitration tribunal, the decisions of which shall be binding.

5. The arbitration tribunal shall be composed of three arbitrators, one being appointed by Niger, one being appointed by EUCAP and the third being appointed jointly by Niger and EUCAP. Where one of the parties does not appoint an arbitrator within two months or where no agreement can be found between Niger and EUCAP on the appointment of the third arbitrator, the arbitrator in question shall be appointed by the President of the Court of Justice of the European Union.

6. An administrative arrangement shall be concluded between EUCAP and the Nigerien administrative authorities in order to determine the terms of reference of the claims commission and the tribunal, the procedure applicable within these bodies and the conditions under which claims are to be lodged.

Article 17

Dispute settlement

1. All issues arising in connection with the application of this Agreement shall be examined jointly by representatives of EUCAP and the competent authorities of Niger.

2. Failing any prior settlement, disputes concerning the interpretation or application of this Agreement shall be settled exclusively by diplomatic means between Niger and EU representatives.

Article 18

Other provisions

1. Whenever this Agreement refers to the privileges, immunities and rights of EUCAP and of EUCAP personnel, the Government of Niger shall be responsible for their implementation and for compliance with them on the part of the appropriate local authorities.

2. Nothing in this Agreement is intended or may be construed so as to derogate from any rights that may attach to an EU Member State or to any other State contributing to EUCAP under other agreements.

*Article 19***Implementing arrangements**

For the purpose of the application of this Agreement, operational, administrative and technical matters may be the subject of separate arrangements to be concluded between the head of mission and the Nigerien administrative authorities.

*Article 20***Final provisions**

1. This Agreement, to be published by each Party, shall enter into force on the date on which it is signed.

2. Notwithstanding paragraph 1, Article 4(8), Article 5(1), (2), (3) and (6), Article 6(1), (3), (5), (7), (8) and (9) and Articles 12 and 15 shall be deemed to apply from the date

on which the first EUCAP personnel were deployed if that date was earlier than the date of entry into force of this Agreement.

3. Changes and amendments to this Agreement shall be made by the mutual consent of the Parties in writing. Changes and amendments shall be executed as separate protocols, which form an integral part of this Agreement and shall enter into force in accordance with paragraph 1 of this Article.

4. This Agreement shall remain valid unless either Party informs the other Party in writing of its desire to terminate this Agreement. The termination of this Agreement shall enter into force six months after the date of receiving such notification. Termination of this Agreement shall not affect any rights or obligations arising out of the execution of this Agreement before such termination.

Done at Niamey on the thirtieth day of July in the year two thousand and thirteen, in two original copies, in French.

For the European Union

For the Republic of Niger

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) No 868/2013

of 4 September 2013

entering a name in the register of protected designations of origin and protected geographical indications (Garbanzo de Escacena (PGI))

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs ⁽¹⁾, and in particular Article 52(2) thereof,

Whereas:

- (1) Regulation (EU) No 1151/2012 repealed and replaced Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs ⁽²⁾.
- (2) Pursuant to Article 6(2) of Regulation (EC) No 510/2006, Spain's application to register the name

'Garbanzo de Escacena' was published in the *Official Journal of the European Union* ⁽³⁾.

- (3) As no statement of objection under Article 7 of Regulation (EC) No 510/2006 has been received by the Commission, the name 'Garbanzo de Escacena' should therefore be entered in the register,

HAS ADOPTED THIS REGULATION:

Article 1

The name contained in the Annex to this Regulation is hereby entered in the register.

Article 2

This Regulation shall enter into force on the twentieth 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 Brussels, 4 September 2013.

For the Commission,
On behalf of the President,
Dacian CIOLOŞ
Member of the Commission

⁽¹⁾ OJ L 343, 14.12.2012, p. 1.

⁽²⁾ OJ L 93, 31.3.2006, p. 12.

⁽³⁾ OJ C 300, 5.10.2012, p. 19.

ANNEX

Agricultural products intended for human consumption listed in Annex I to the Treaty:

Class 1.6. Fruit, vegetables and cereals, fresh or processed

SPAIN

Garbanzo de Escacena (PGI)

COMMISSION IMPLEMENTING REGULATION (EU) No 869/2013**of 10 September 2013****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾,

Having regard to Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors ⁽²⁾, and in particular Article 136(1) thereof,

Whereas:

- (1) Implementing Regulation (EU) No 543/2011 lays down, pursuant to the outcome of the Uruguay Round multi-lateral trade negotiations, the criteria whereby the

Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XVI, Part A thereto.

- (2) The standard import value is calculated each working day, in accordance with Article 136(1) of Implementing Regulation (EU) No 543/2011, taking into account variable daily data. Therefore this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 136 of Implementing Regulation (EU) No 543/2011 are fixed in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the day 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, 10 September 2013.

*For the Commission,
On behalf of the President,*

*Jerzy PLEWA
Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 157, 15.6.2011, p. 1.

ANNEX

Standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	MK	34,4
	ZZ	34,4
0707 00 05	TR	95,4
	ZZ	95,4
0709 93 10	TR	126,1
	ZZ	126,1
0805 50 10	AR	121,5
	CL	118,1
	IL	142,1
	TR	73,0
	UY	127,6
	ZA	135,1
	ZZ	119,6
0806 10 10	BR	183,4
	EG	184,6
	IL	162,2
	TR	142,9
	ZZ	168,3
0808 10 80	AR	159,7
	BR	103,3
	CL	105,4
	NZ	137,7
	US	130,5
	ZA	121,1
	ZZ	126,3
0808 30 90	CN	81,6
	TR	133,7
	ZA	138,4
	ZZ	117,9
0809 30	TR	133,4
	ZZ	133,4
0809 40 05	BA	53,5
	MK	54,9
	XS	53,2
	ZZ	53,9

⁽¹⁾ Nomenclature of countries laid down by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

DECISIONS

COMMISSION IMPLEMENTING DECISION

of 10 September 2013

on the approval of the Daimler engine compartment encapsulation system as an innovative technology for reducing CO₂ emissions from new passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council

(Text with EEA relevance)

(2013/451/EU)

THE EUROPEAN COMMISSION,

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

Having regard to 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⁽¹⁾, and in particular Article 12(4) thereof,

Whereas:

- (1) The manufacturer Daimler AG (the 'Applicant') submitted an application for the approval of an engine compartment encapsulation system as an innovative technology on 15 February 2013. The completeness of the application was assessed in accordance with Article 4 of Commission Implementing Regulation (EU) No 725/2011⁽²⁾. The Commission identified certain relevant information as missing in the original application and requested the Applicant to complete it. The Applicant provided the necessary information on 17 April 2013. The application was found to be complete and the period granted to the Commission for its assessment started on the day following the date of official receipt, i.e. 18 April 2013.
- (2) The application has been assessed in accordance with Article 12 of Regulation (EC) No 443/2009, Implementing Regulation (EU) No 725/2011 and the Technical Guidelines for the preparation of applications for the approval of innovative technologies pursuant to Regulation (EC) No 443/2009 (the Technical Guidelines)⁽³⁾.
- (3) The application refers to an engine compartment encapsulation system which permits the reduction of heat loss after the vehicle is turned off by sealing the engine compartment and by the closing of grille openings by

a radiator shutter. The stored heat yields a delayed cool-down of the powertrain. The fuel consumption and CO₂ emissions of the vehicle after restarting is decreased due to lower friction caused by the higher powertrain temperature.

- (4) The Commission finds that the information provided in the application demonstrates that the conditions and criteria referred to in Article 12 of Regulation (EC) No 443/2009 and in Articles 2 and 4 of Implementing Regulation (EU) No 725/2011 have been met.
- (5) The Applicant has demonstrated that the market penetration in 2009 of engine compartment encapsulation systems of the kind described in the application did not exceed the threshold specified in Article 2(2)(a) of Implementing Regulation (EU) No 725/2011. This claim is also supported by the accompanying verification report. On that basis, the Commission finds that the engine compartment encapsulation provided by the Applicant should be considered as meeting the eligibility criterion set out in Article 2(2)(a) of Implementing Regulation (EU) No 725/2011.
- (6) In order to determine the CO₂ savings that the innovative technology will deliver when fitted to a vehicle, it is necessary to define the baseline vehicle against which the efficiency of the vehicle equipped with the innovative technology should be compared, as provided for in Articles 5 and 8 of Implementing Regulation (EU) No 725/2011. The Commission finds that it is appropriate to consider the eco-innovation vehicle without an engine compartment encapsulation as an appropriate baseline technology.
- (7) The Applicant has provided a comprehensive methodology for testing the CO₂ reductions. That methodology consists of roller bench tests to determine the Hot Start Benefit (HSB). That benefit occurs when the engine compartment encapsulation is implemented. It includes formulae that are consistent with the formulae described in the Technical Guidelines for the simplified approach with regard to engine compartment encapsulation. The Commission considers that the testing methodology will provide testing results that are verifiable, repeatable and comparable and that it is

⁽¹⁾ OJ L 140, 5.6.2009, p. 1.

⁽²⁾ Commission Implementing Regulation (EU) No 725/2011 of 25 July 2011 establishing a procedure for the approval and certification of innovative technologies for reducing CO₂ emissions from passenger cars (OJ L 194, 26.7.2011, p. 19).

⁽³⁾ http://ec.europa.eu/clima/policies/transport/vehicles/cars/docs/guidelines_en.pdf

capable of demonstrating in a realistic manner the CO₂ emissions benefits of the innovative technology with strong statistical significance in accordance with Article 6 of Implementing Regulation (EU) No 725/2011.

- (8) Against that background the Commission finds that the Applicant has demonstrated satisfactorily that the emission reduction achieved by the innovative technology is at least 1 g CO₂/km.
- (9) Since the effects of reduced engine cooling as a result of engine compartment encapsulation are not covered by the standard test cycle referred to in Regulation (EC) No 715/2007 of the European Parliament and of the Council ⁽¹⁾ and Commission Regulation (EC) No 692/2008 ⁽²⁾, the Commission is satisfied that the engine compartment encapsulation is not covered by the standard test cycle.
- (10) The Commission notes that the verification report has been prepared by TÜV NORD Mobilität GmbH & Co. KG, which is an independent and certified body, and it supports the findings set out in the application.
- (11) Against that background, the Commission finds that no objections should be raised as regards the approval of the innovative technology in question.
- (12) Any manufacturer wishing to benefit from a reduction of its average specific CO₂ emissions for the purpose of meeting its specific emissions target by means of the CO₂ savings from the use of the innovative technology

approved by this Decision should, in accordance with Article 11(1) of Implementing Regulation (EU) No 725/2011, refer to this Decision in its application for an EC type-approval certificate for the vehicles concerned,

HAS ADOPTED THIS DECISION:

Article 1

1. The Daimler engine compartment encapsulation system is approved as an innovative technology within the meaning of Article 12 of Regulation (EC) No 443/2009.

2. The CO₂ emissions reduction from the use of the Daimler engine compartment encapsulation system referred to in paragraph 1 shall be determined using the methodology set out in the Annex.

Article 2

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

Done at Brussels, 10 September 2013.

For the Commission

The President

José Manuel BARROSO

⁽¹⁾ 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).

⁽²⁾ 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).

ANNEX

Methodology for determining the reduction in CO₂ emissions due to the use of the Daimler engine compartment encapsulation system in an M₁ vehicle**1. INTRODUCTION**

In order to determine the CO₂ reductions that can be attributed to the use of the Daimler engine encapsulation system in an M₁ vehicle, it is necessary to establish the following:

- (a) the testing procedure to be followed for determining the cool-down curves of the eco-innovation vehicle with and without an engine compartment encapsulation;
- (b) the testing procedure to be followed to determine the Hot Start Benefit (HSB) of the eco-innovation vehicle;
- (c) the formulae for calculating the variation coefficients;
- (d) the formulae for calculating the CO₂ savings;
- (e) the determination of the CO₂ savings for the certification by type-approval authorities.

2. DETERMINING THE COOL-DOWN CURVES

The cool-down curves shall be determined experimentally for the baseline and the eco-innovation vehicle. The curves shall be applicable for vehicle variants with the same heat capacities, engine bay packaging and engine heat insulation as those available in the baseline and EI vehicle. The experimental test shall include continuous measurements of representative coolant temperatures by means of a thermocouple at a constant ambient temperature of at least 14 °C over 24 hours. The engine shall be heated up to the maximum coolant temperature before cut-off by a sufficient number of consecutive New European Driving Cycles (NEDC) as specified in point 3.

After preconditioning, for deactivation of all pumps and fans, the ignition shall be switched off and the dash key pulled out. The car's bonnet shall be closed completely. Any artificial ventilation systems inside the test cell shall be switched off. The resulting measurement curves shall be converged by the mathematical approach described by formula 1.

$$\text{Formula 1: } T(t) = (T_0 - T_A) \cdot e^{(-d \cdot t)} + T_A$$

with:

T(t): temperature over time [°C]

T₀: temperature of the operating engine [°C]

T_A: ambient temperature [°C]

d: decay constant [1/h]

The least squares method shall be used for the fitting of the two curves. To do that, the temperature measurement data of the first 20 minutes after engine cut-off is not to be considered because of the untypical behaviour of the coolant temperature after switching off the coolant system.

3. DETERMINING THE HOT START BENEFIT (HSB)

The HSB of the EI vehicle shall be determined experimentally. This value describes the difference of CO₂ emissions between a cold start and a hot start NEDC test in relation to the cold start result:

$$\text{Formula 2: } HSB = 1 - \frac{CO_2(hot)}{CO_2(14\text{ °C})}$$

with:

HSB: Hot Start Benefit

CO₂ (hot): CO₂ emissions of hot start NEDC test [g CO₂/km]

CO₂ (14 °C): CO₂ emissions of cold start NEDC test [g CO₂/km]

The coolant temperature at the beginning of the cold start test and the ambient temperature in the test cell shall not be below 14 °C. The hot start NEDC test shall be conducted following the cold start NEDC test. It is possible to perform one or two preconditioning NEDC tests between the cold start and the hot start NEDC test. It shall be ensured and documented that the state of charge (SOC) variation (for example, using his Controller Area Network

signal) of the starter battery after each test is within 5 %. The complete test procedure shall be repeated at least two times. Arithmetic means of the cold start and of the hot start CO₂ results and the respective variation coefficients of the means shall be calculated. The complete test procedure shall be repeated as long as the variation coefficients of both arithmetic means are below 1 % (see point 4).

4. CALCULATING THE VARIATION COEFFICIENTS OF THE ARITHMETIC MEANS

The variation coefficients of the arithmetic means shall be calculated using the following formulae:

Formula 3: $c_v = s_{\bar{x}} / \bar{x}$

c_v : variation coefficient;

$s_{\bar{x}}$: standard deviation of arithmetic mean [g CO₂/km];

$\bar{x}$: arithmetic mean [g CO₂/km];

and

$$\text{Formula 4: } s_{\bar{x}} = \sqrt{\frac{\sum_{i=1}^n (x_i - \bar{x})^2}{n(n-1)}}$$

$s_{\bar{x}}$: standard deviation of arithmetic mean [g CO₂/km];

x_i : measurement value [g CO₂/km];

$\bar{x}$: arithmetic mean [g CO₂/km];

n : number of measurements.

5. FORMULAE FOR CALCULATING THE CO₂ SAVINGS

The relative CO₂ reduction potential $\Delta\text{CO}_2(t)$ for different parking times shall be calculated using formula 5 with the following input data:

- decay constant of the eco-innovation vehicle without an engine compartment encapsulation (baseline vehicle): d_B [1/h]. This value shall be calculated with formula 1;
- decay constant of eco-innovation vehicle with an engine compartment encapsulation: d_E [1/h]. This value shall be calculated with formula 1;
- Hot Start Benefit: **HSB**. This value shall be calculated with formula 2;
- parking time distribution (share of vehicle stops): **SVS**. Table 2 (below) shall be used;
- CO₂ type-approval value: **TA_{CO₂}** [g CO₂/km], i.e. CO₂ mass emissions combined.

$$\text{Formula 5: } \Delta\text{CO}_2 = 1,443 \cdot \ln\left(\frac{e^{(-d_E \cdot t)} + 1}{e^{(-d_B \cdot t)} + 1}\right) \cdot \text{HSB}$$

The calculation results shall be given in the following Table 1:

Table 1

Relative CO₂ reduction potential $\Delta\text{CO}_2(t)$ for different parking times

Parking time [h]	0,5	1,5	2,5	3,5	4,5	5,5	6,5	7,5	8,5	9,5	10,5	11,5
$\Delta\text{CO}_2(t)$ [%]												
Parking time [h]	12,5	13,5	14,5	15,5	16,5	17,5	18,5	19,5	20,5	21,5	22,5	23,5
$\Delta\text{CO}_2(t)$ [%]												

The total CO₂ savings, weighted by the parking times (pt) shall be calculated using formula 6 ⁽¹⁾.

$$\text{Formula 6: } C_{\text{CO}_2} = \text{TA}_{\text{CO}_2} \cdot \sum_{pt=1}^{24} \Delta\text{CO}_2(t)_{pt} \cdot \text{SVS}_{pt}$$

⁽¹⁾ In this formula 6, TA_{CO_2} is the type-approval value for the baseline vehicle.

Where the values for parking time [h] and SVS [%] shall be those in Table 2:

Table 2

Parking time distribution (share of vehicle stops)

Parking time [h]	0,5	1,5	2,5	3,5	4,5	5,5	6,5	7,5	8,5	9,5	10,5	11,5
SVS [%]	36	13	6	4	2	2	1	1	3	4	3	1
Parking time [h]	12,5	13,5	14,5	15,5	16,5	17,5	18,5	19,5	20,5	21,5	22,5	23,5
SVS [%]	1	3	3	2	1	1	1	1	1	1	1	1

The CO₂ savings shall be the type-approval value (CO₂ mass emissions combined) multiplied by a factor of x ⁽¹⁾. The value of x is equal to the term $\sum \Delta\text{CO}_2(t)_{\text{pt}} \cdot \text{SVS}_{\text{pt}}$ of formula 6.

Where an existing vehicle type is equipped with the innovative technology the following formula shall be used:

Formula 7: $C_{\text{CO}_2} = x * \text{TA}_{\text{CO}_2 \text{ baseline vehicle}}$

with:

C_{CO_2} : CO₂ savings [g CO₂/km]

$\text{TA}_{\text{CO}_2 \text{ baseline vehicle}}$: type-approval value of the eco-innovation vehicle without an engine compartment encapsulation [g CO₂/km]

Where the innovative technology is installed on a new vehicle type and the type-approval CO₂ value has been determined with the innovative technology installed, the following formula for calculating the CO₂ savings shall be used:

Formula 8: $C_{\text{CO}_2} = x / (1 - x) * \text{TA}_{\text{CO}_2 \text{ new vehicle type}}$

with:

C_{CO_2} : CO₂ savings [g CO₂/km]

$\text{TA}_{\text{CO}_2 \text{ new vehicle type}}$: type-approval value of the new vehicle type equipped with the innovative technology [g CO₂/km]

6. ECO-INNOVATION CODE TO BE ENTERED INTO TYPE-APPROVAL DOCUMENTATION

For the purposes of determining the general eco-innovation code to be used in the relevant type-approval documents in accordance with Annexes I, VIII and IX to Directive 2007/46/EC of the European Parliament and of the Council ⁽²⁾, the individual code to be used for the innovative technology approved through this Decision shall be '3'.

For example, the code of the eco-innovation in the case of eco-innovation savings certified by the German type-approval authority shall be 'e1 3'.

⁽¹⁾ In accordance with point 8.5 of the Technical Guidelines.

⁽²⁾ Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive) (OJ L 263, 9.10.2007, p. 1).

NOTICE TO READERS

Council Regulation (EU) No 216/2013 of 7 March 2013 on the electronic publication of the *Official Journal of the European Union*

In accordance with Council Regulation (EU) No 216/2013 of 7 March 2013 on the electronic publication of the *Official Journal of the European Union* (OJ L 69, 13.3.2013, p. 1), as of 1 July 2013, only the electronic edition of the Official Journal shall be considered authentic and shall have legal effect.

Where it is not possible to publish the electronic edition of the Official Journal due to unforeseen and exceptional circumstances, the printed edition shall be authentic and shall have legal effect in accordance with the terms and conditions set out in Article 3 of Regulation (EU) No 216/2013.

NOTE TO READERS — WAY OF REFERRING TO ACTS

As of 1 July 2013 the way of referring to acts has changed.

During a transitional period this new practice will coexist with the previous one.

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