



Air Resources Board



Matthew Rodriguez
Secretary for
Environmental Protection

Mary D. Nichols, Chair
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Edmund G. Brown Jr.
Governor

September 22, 2016

Ms. Kathleen Van Brempt
Committee of inquiry into Emission Measurements in the Automotive Sector (EMIS)
Directorate-General for Internal Policies of the Union
BRU – SQM 06Y002
B-1047
Brussels, Belgium

Subject: European Parliament Committee of Inquiry into Emission Measurements in the Automotive Sector (EMIS) – written questions to the California Air Resources Board (CARB)

Dear Ms. Van Brempt:

I am pleased to respond to your letter dated 22 August 2016 (attached). To the extent possible, we are providing answers to the twelve specific questions concerning the EMIS Committee's charge, described in your letter as the investigation of the "alleged contraventions and maladministration in relation to emission measurements in the automotive sector." We understand and support the committee's charge. We also want to thank you for your previous inquiries to both Ms. Annette Hebert and Mr. Richard Corey concerning the invitation to CARB from the European Parliament to participate in the upcoming EMIS Committee hearing scheduled for 26 September 2016. Upon the advice of our legal team, we have determined that CARB staff is not able to participate in person in an open parliamentary hearing. As you know, the Volkswagen (VW) violations and many related issues surrounding the assessment of vehicle emission control technology for certification purposes in California, including our specific approach to vehicle emission measurements and testing, are critical aspects of a still very much open and complex enforcement investigation against VW, which we cannot discuss in public. Thus, while we must regretfully decline the gracious invitation of the European Parliament's EMIS Committee to appear in person, we do value the opportunity to provide you with some written feedback for the Committee's consideration.

It is no accident that CARB originated the investigation of emissions from light-duty diesel vehicles, and took the subsequent actions on compliance and enforcement that eventually led to the discovery of the defeat device and admission of cheating by VW. For our approach, we

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website: <http://www.arb.ca.gov>.

California Environmental Protection Agency

developed and applied new tools and methods for challenging a vehicle emission control system, while taking full advantage of our expertise in developing and implementing California's On-Board Diagnostics Program. Recognizing the limitations of Portable Emission Measurement Systems, we developed complimentary emissions laboratory testing methods and dynamometer cycles to arrive at a better understanding of the potential reasons for excess emissions in the VW case. We recognize that we have an opportunity and a responsibility to share all of these lessons and the manner in which we will fully put this new knowledge to use to improve our already robust and rigorous vehicle emissions certification, testing, compliance, and enforcement program.

Thus, I trust that my team of technical experts and I will soon have ample opportunity for discussion of the relevant issues and be able to share openly with the European Parliament and other authorities around the world the many valuable lessons that CARB staff has learned investigating and resolving the VW diesel vehicle emissions violations. Our agency values research collaboration and has had a long-standing commitment to others, including Europe, on *all-things* vehicle emissions, as evidenced, for example, by our past agreement on vehicle emissions research under a Memorandum of Understanding with your Joint Research Centre, and CARB's informal participation and testing in California of Europe's "PMP Golden Vehicle." We have continued that commitment to date on several topics of mutual interest including vehicle and engine emissions research.

On behalf of our agency and team, I thank you for the opportunity to provide this input to the EMIS Committee and encourage you to send us additional questions should further clarification be necessary.

Sincerely,



Dr. Alberto Ayala
Deputy Executive Officer
California Air Resources Board

Attachments: 1) CARB responses to questions from EMIS Committee
2) 22 August 2016 letter to Dr. Alberto Ayala including attachments

Ms. Kathleen Van Brempt
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cc: Ms. Nora Kovacheva
Administrator, EMIS Secretariat
Committee of inquiry into Emission Measurements in the Automotive Sector (EMIS)
Directorate-General for Internal Policies of the Union
BRU – SQM 06Y002
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Brussels, Belgium

Ms. Annette Hebert
Chief, Emissions Compliance, Automotive Regulations, and Science Division
California Air Resources Board

Mr. Richard Corey
Executive Officer
California Air Resources Board

Attachment – Responses by the California Air Resources Board

The research service of the European Parliament analyzed the legal obligations in relation to emission measurements in the EU automotive sector. It concluded that: "Independent in service conformity re-testing and the publication of the results, in particular, will give rise to a situation where OEMs are keen to ensure the proper functioning of emission abatement systems under real driving conditions. As a result, OEMs will strive to optimize their exhaust gas systems on the basis of real driving conditions and not in emission test situations on test benches." Are test results in the US public? Is there independent re-testing in the US? If so, does it exercise a pressure on OEMs to focus on real driving conditions instead of the laboratory tests that the US uses?

The California Air Resources Board (CARB) is involved with a wide variety of emissions testing activities that are made public; however, we do not assume auto makers will manufacture durable and properly functioning emission control systems based on the public posting of test results alone. Rather, we believe that compliance with California's emission standards is achieved through a robust network or "ecosystem" of programs and requirements that manufacturers must meet in order to legally sell vehicles in the State. California's mobile source emission control program involving the auto makers has a number of elements, including extensive certification requirements for new vehicles, in-use requirements that apply for the regulatory useful life period of vehicles operating on the road, and enforcement against manufacturers who do not comply with these requirements. Other critical components that support our core laboratory testing programs include, for example, the use of Portable Emissions Measurement Systems (PEMS) and On-Board Diagnostics (OBD) programs that help ensure vehicles stay clean over their useful life. But there are no silver bullets. We believe that reporting PEMS data alone, without substantiating the data with explanations of why emission behaviors are observed, is insufficient for auto makers to unilaterally produce durable and properly functioning emission control systems. CARB's vehicle testing program, which dates back to the 1960s, is extensive; in any given year, there are typically hundreds of laboratory tests for light-duty vehicles alone, which can serve multiple purposes for compliance and enforcement, but also as inputs into our emission inventory models used for air quality planning. Whereas these results do not need to be publicized in order for CARB to take action against manufacturers and achieve real-world emission reductions, results are commonly disseminated through various venues.

As a matter of course for a public government entity, findings from relevant emission testing activities are often included in official CARB staff regulatory reports, presentations at public workshops or at technical meetings, and in manuscripts published in the peer-reviewed literature. However, there are exceptions and situations in which, for legal reasons, vehicle emissions testing may not be made public. In addition to our in-house testing programs, our clean car policies are further supported by other studies conducted either under contract or independently by third parties, such as by academia, private consultants, non-governmental organizations, and local air management authorities. In many cases, makers of emission measurement instruments, typically all major companies, also commonly participate in various capacities in these testing endeavors, providing expert advice on instrument operation or test

methods. All of these independent third parties are accustomed to producing reports, presentations, and publications of relevant findings, which are readily accessible by the public.

Public policy for clean vehicles plays a major role in the emissions research conducted in California and the U.S. CARB's end goal is to achieve real-world emission reductions, and to achieve this, CARB regularly engages in dialogue with the emissions research community, and, in many instances, our vehicle testing is done in coordination with a broad audience. Thus, CARB staff maintains a number of constructive partnerships that offer a venue for vetting and discussing vehicle emission testing and research, including convening technical forums and conferences to plan research or discuss the latest findings in specialized areas such as on-road real-world emissions. We are confident the sum total of this testing activity results in pressure on the automakers to meet the expectations of our emission standards, as most do, not only in the dynamometer laboratory but, most importantly, in the real world.

Where would you see the strengths and weaknesses in the U.S. vehicle emission testing and enforcement schemes? What does the regulator plan to improve in the near future? What does the EU need to improve in its regulation? Do you discuss differences in technologies of emission reduction systems with your European counterparts, or authorities of the EU member states or other authorities worldwide?

As previously mentioned, CARB has robust vehicle emission certification, in-use compliance, testing, and enforcement programs. There is also clear authority that CARB, as a regulatory entity, has over every aspect of implementation and enforcement of vehicle emission standards in California. We trust the test results legally required from the automakers, but independently verify them. And while we have confidence in the robustness of our testing program, we are constantly capitalizing on opportunities to be more efficient and strategic in our mission. Certification requires testing over multiple chassis dynamometer driving cycles that are precisely designed to ensure emission performance in real-world operation. In addition to certification, automakers must comply with the requirements of California's OBD Program, which plays a major role in emission control. CARB dedicates a significant amount of resources to tracking performance of vehicles under our regulatory purview, by meticulously reviewing certification applications submitted by the manufacturers to our technical experts. Certification decisions are aided by testing and research in the laboratory and on the road. In this process we identify vehicles that will undergo confirmatory testing through our in-use compliance program. We recognize the constraints and challenges posed by limited resources, time, and laboratory availability, which is also the case for testing vehicles over the road. We have refined the process of carefully selecting vehicles for more rigorous testing, which is the focus of our programs. And therefore, it is no accident that CARB was the agency that originated the probe of light-duty diesel vehicles in the Volkswagen (VW) scandal, and that eventually pressed the company to admit to the cheating.

CARB staff is fully examining the lessons learned in the VW case, with the goal of applying those lessons to strengthen all facets of California's existing mobile source control programs and, in particular, improve existing certification, testing, compliance, and enforcement. While this work is ongoing, we

have already implemented some improvements - some can be made administratively while others may require new regulations or amendments to existing regulations. First, we plan to make extensive use of PEMS and other tools that can be used to assess real-world emissions, such as Remote Sensing Devices (RSD) to screen large numbers of in-use vehicles operating on the roadways. However, because RSD or PEMS testing alone is insufficient and inadequate to explain why certain emissions trends are observed, we will continue development of new methods for challenging the emission control system based on special dynamometer cycles that better reflect real world operations. This approach was one of the key factors in our ability to identify and understand the anomalies in the VW diesel vehicles. In addition, we must consider options for enhancing the public's right to access information related to potential non-conformities of emission controls while balancing the legal rights to and the need for confidentiality. CARB staff also expects to pursue regulatory changes aimed at improving vehicle warranty and durability, in order to promote more robust emission control systems. These actions will be part of a collaborative process with our partner regulatory entities, the auto industry, and other interested stakeholders.

Finally, as stated in our response to question one and in the cover letter, CARB staff has held a long-standing and constructive dialogue with EU colleagues, particularly JRC and a few other directorates, and plans to continue engaging in these dialogues. Our agency has a broad interest in advancing vehicle emission control through engagement in technical discussions and interaction with European researchers and authorities. While we cannot suggest specific areas for improvement in the EU regulations, as we do not command detailed knowledge of them, we are happy to continue the dialogue and share the learnings from our process for resolving the VW diesel violations.

Have you tested vehicles from GM or Fiat-Chrysler that use the same European diesel technology? Have you found any irregularities in their emission behaviour?

While we cannot provide specific information about the scope of our ongoing laboratory activities, we can share that our plans do include expanding our testing to other diesel vehicles and gasoline vehicles from various auto manufacturers. When ready and able, we would be happy to engage in discussion with the EMIS committee about our findings.

In the aftermath of the VW revelations, other European manufacturers - BMW, Renault, Daimler, Opel, Fiat etc. - have been accused and come under suspicion of changing the performance of vehicle emission control system during the real-world operation by using the so called 'thermo windows'. It has become clear that there is a broad range of temperature limits used to reduce the effectiveness of EGR technology (e.g. below 10°C - Daimler or below 17°C - Renault and Opel). The definition of a defeat device is practically identical in the US and EU. Could you please tell us whether, according to your expertise, the use of a thermo window could be considered a defeat device or as an exception to the general prohibition due to the need to protect the engines in certain conditions? Could you please

elaborate on the main differences between the US and EU regulatory approach with regards to implementing and enforcing the ban on defeat devices?

We cannot comment on the specifics of our ongoing investigations into potential issues related to emission controls by other auto makers. As you know, as of the time of generating this written response, we still have to resolve the remaining violations associated with VW's 3.0L engines. We are generally aware of the developments in Europe with other auto makers and the reference to a "thermo window." However, at the moment, we can only acknowledge the plausibility that such an approach, if undisclosed, could fit into the definition of a defeat device under California law, and these methods could be violations of other regulatory requirements.

In addition, we cannot comment on the differences between your regulatory approach and California's, as we do not have detailed knowledge of your requirements applicable to defeat devices. In our case, California regulations make it explicitly clear what constitutes a defeat device. In addition, our authority for compliance and enforcement is delineated in State law.

In 1998 you launched "San Diego Old Vehicle Buy Back Program", which intended to remove the oldest, most polluting vehicles from the road, and was an incentive for consumers to buy new cleaner models. Did it have a positive impact on air quality, and if so, did you re-launched a similar type of programmes in later years?

Retirement of older, higher-emitting vehicles is a recognized and effective air quality strategy. The State of California has a long history of investing to modernize our fleet of in-use vehicles. CARB works closely with local air quality management authorities and other stakeholders to implement and, in some cases, augment state programs. The San Diego program is an early example of such collaborations. Since then, California has continued supporting various actions to accelerate the natural turnover of the fleet and today, there are two major programs in place. As part of California's Smog Check Program (inspection and maintenance), the Consumer Assistance Program (CAP) offers vehicle repair assistance and vehicle retirement to eligible California motorists

https://www.bar.ca.gov/consumer/Consumer_Assistance_Program/index.html). California is also implementing the Enhanced Fleet Modernization Program (EFMP) to scrap eligible, higher polluting vehicles or to replace them with cleaner, more efficient vehicles. In both cases, consumer financial incentives are provided using public funds (<https://www.arb.ca.gov/msprog/aqip/efmp/efmp.htm>).

Have you agreed with VW on any timetable of modifying almost 500,000 cars, which do not fulfil current emission standards? Has VW provided you with any, be it partial, proposals on how these cars will be technically modified? If so, can you share with us these proposed solutions?

We cannot comment beyond what has been reported directly by the U.S. federal court on the proposed partial consent decree reached between California, VW, and U.S. federal authorities regarding the 2.0L vehicles. You can find more information about the proposed partial consent decree on the federal court's website at <http://www.cand.uscourts.gov/crb/vwmdl/proposed-settlement-docs>. However, we can state that CARB has been clear in our interest in the expeditious and timely resolution of the excess emissions resulting from the impacted vehicles. We also cannot comment on the ongoing discussions regarding resolution of the 3.0L engine excess emissions. Updates to the publically available information on the case are posted online (https://www.arb.ca.gov/msprog/vw_info/vw-diesel-info/vw-diesel-info.htm).

Whereas EURO 6 standards are similar in stringency to Tier 2 standards, both the US Tier 2 and US Tier 3 emission standards for light-duty vehicles (closely aligned with CA LEV III standards) include most importantly a fleet average NMOG+NOx limit that must be met by each manufacturer. It means each vehicle is certified to a per-vehicle so called bin standard and values are sales weighted to calculate fleet-average emissions. This standard was signed into law on March 3, 2014 and is to be phased-in over the period from 2017 through 2025 (to reach 30 mg/mi in 2025). The US standard is the same for gasoline and diesel engines. This final Tier 3 fleet average limit is applicable to all vehicle categories—unlikely to the Tier 2 regulation that allowed more relaxed fleet average emissions from heavier vehicle categories. The Tier 3 standards apply over a useful life of 150,000 miles (around 257. 495 km) or 15 years, whichever occurs first. This requirement is identical to the California LEV III program approach.

Do you see the use of fleet average as the effective enforcement tool to provide manufacturers with greater flexibility and motivation for marketing significantly cleaner vehicles in comparison to Euro 5 and Euro 6 which are based on maximum limits to stay in force for multiple years until new standards are introduced? What are in your views the major differences to the EU model with maximum limit values set as regards mechanisms you may wish to underline in explaining the motivation drivers for the manufacturers?

Emission standards that are based on a fleet average limit for a specific pollutant or combination of pollutants are an important flexibility option that California has included in vehicle emission regulations including the most recent LEV III standards. Certification of vehicles for compliance with emission standards is based on the emission control system for each specific model and engine family such that the fleet average approach does not impede or influence in any way the ability to enforce emission standards. While we cannot comment on specific aspects of the differences between the CARB and EU models, as we do not have command of the details of the European approach, we can say that compliance flexibility, where appropriate, is an important feature of California's approach towards

cleaner vehicles. We believe that the flexibility that CARB affords to manufacturers allows for more cost-effective solutions to achieve our emission reductions and air quality goals, and does not imply looser requirements or less enforceability of the rules.

What has been the nature of the contacts and information exchanges between the CARB and European scientists/engineers/EC officials (including JRC) or Member States representatives with regards to the problems of diesel vehicles emission discrepancies between level on the road and during laboratory testing? Did JRC and CARB have any form of cooperation regarding testing of vehicles emissions, and did CARB ever inform the JRC about the problems of diesel vehicles emission discrepancies between road and laboratory, and the use of defeat devices? Was the problem of the use of defeat devices that reduce the effectiveness of after-treatment technology and the need to develop testing and regulatory practices that would ensure they are not in use, ever discussed between the US and the EU?

CARB has enjoyed a long-standing dialogue with many of our European counterparts. Over the years, CARB researchers and our EU counterparts, particularly from JRC, have been in regular dialogue, and normally meet when attending technical conferences or similar meetings. In addition, California and JRC have had a Memorandum of Understanding for collaboration on emission research. These interactions have included the topic of in-use emissions, including the discrepancies between certification emission levels and those on the road, the use of PEMS, and the early stage of development of the European RDE requirements. In fact, CARB credits our colleagues from JRC with raising the idea of an investigation of light-duty diesel vehicles certified to California LEV standards. This idea and our recognition of the importance of diesel as a low-carbon solution for California were the impetus for the original CARB study of diesel emissions that grew into the VW investigation. However, our discussions were about emissions research and did not include any specific reference to defeat devices.

CARB has tested several diesel cars with NO_x-PEMS. Could you please describe the measuring techniques and devices and the calibration of the analysers? During the previous hearings the EMIS committee has been informed that the drifting of zero is a significant factor on the measurements. Is this really the case? How much the zero actually drifts? Is the drifting linear? How much the upper end of the calibration line drifts? In the measurements CARB has carried out what were the factors included into the calculation of the measurement uncertainty? What was the uncertainty percentage? Were all the analysers and the monitoring set-up the kinds that are generally available (meaning no tailor-made nor “home-made” equipment used)?

California Air Resources Board has had the opinion that the state legislature might prevent Volkswagen to offer a fully compliant fix for its faulty diesel engines. From the technical point of view, do you see fixing the excess emission possible and reliable?

CARB experts use commercially available PEMS manufactured by AVL and Sensors, the same models that are widely used by other investigators. CARB does not use home-made instruments as part of its in-house research, on-road confirmatory, or compliance testing. Both the AVL and Sensors PEMS rely on non-dispersive ultraviolet (NDUV) analyzers to measure NOx emissions.

Regardless of measurement principle of gaseous pollutant of interest, CARB follows commonly accepted industry practices by calibrating the AVL and Sensors analyzers at zero point with zero air, and span point with commercially available calibration gases. For light-duty vehicle testing, zero and span checks are performed before and after on-road testing rather than during actual on-road testing. Sometimes we find zero-drift occurs in non-linear patterns. However, 40 CFR 1065 guidelines assume the drift is linear when conducting drift correction, which is followed by all commercially available software. Depending on the manufacturer and PEMS model, the upper limit of zero drifts ranges from 1-10 ppm every 1 to 4 hours. When drift values exceed this amount, or when final drift-corrected NOx emissions are more than 4% different from uncorrected emission rates, CARB investigators invalidate the test. However, when testing light-duty vehicles with defeat devices and, hence, NOx emissions dramatically higher than allowable limits, we find that drift correction impacts are small, and typical drift corrections are less than 0.5%. In our assessment, analyzer drift at zero point or span point do not result in dramatic discrepancies relative to laboratory grade systems. There are a number of research groups who are evaluating the real-world accuracy of PEMS systems; one recent study showed a PEMS agreed relative to a laboratory grade system to within 4.2% when considering all sources of variability, which included not only analyzer drift but also the precision of the analyzer system and the accuracy of the raw exhaust flow measurement that is used to calculate emission factors¹. Because of our extensive history with PEMS, first used for heavy-duty vehicle applications and more recently light-duty vehicle testing, CARB has developed and published separate Standard Operating Procedures for each of the PEMS models detailing setup, calibration, operation, and data processing that the EMIS Committee is welcome to consider.

In terms of your second question, and as described in Appendix B of the proposed partial consent decree, CARB and U.S.EPA will work with VW to investigate whether an emissions modification approach to substantially, but partially reduce the excess emissions associated with the 2.0L subject engines is possible and, if so, the technical specifications for such a modification to ensure reliability and actual in-use emission reductions. The proposed process and limitations are extensively described in the proposed partial consent decree, which can be found at <https://www.justice.gov/opa/file/871306/download>.

¹ Tanfeng, C. et al. A Comprehensive Evaluation of a Gaseous Portable Emissions Measurement System with a Mobile Reference Laboratory. *Emission Control Science & Technology* (2016) 2:173-180.

How do you control in-service emissions over the lifetime of vehicles? Do you believe that catalytic converter technology exist that would enable diesel vehicles to meet the NOx regulatory emission limit of the US and the EU in "normal use" i.e. on the road and not just in the laboratory test cycle?

CARB has already adopted emission standards that apply for the useful life of light-duty vehicles. The California LEV III emission standards include 150,000-mile (242,000 kilometer) durability requirements for emission control systems. Confirmatory in-use compliance testing can be conducted at any point in the life of a test vehicle subject to the applicable standards, and has been ongoing within CARB since the 1980s for light-duty vehicles. The in-use compliance testing conducted by CARB has been previously described in other responses. In addition to the regulatory useful life period that holds the manufacturer responsible for correcting any manufacturing defects, there are end-user requirements through California's inspection and maintenance, or Smog Check, program. This program is designed to prevent mal-maintenance, tampering, and ensure that repairs are made in a timely manner to failed emission control systems. As stated in the next response, CARB believes that the auto industry has developed effective emission control technology for diesel combustion under on-road real-world operation. Both gasoline and diesel fueled vehicles are subject to the same environmental requirements in California. Thus, clean diesel can be a real, low-emission solution.

California has put in place the toughest air emissions limits for cars, with NOx limits, which are less than half those in place in EU. Is there any difference in NOx emissions limits between diesel and petrol engines? Is the technology available to allow diesel vehicles to respect the limits? Are those limits measured at the tailpipe or on the dynamometer? How could you be sure that circulating diesel cars are in conformity with type-approval emissions limits? Which sanctions can be applied to carmakers whose vehicles do not respect emission limits?

The transportation sector accounts for the majority of the air and climate pollution produced in California. Thus, vehicle emission standards and limits on specific pollutants are necessary for combating pollution at the source. Regulations adopted by CARB strive to be technology and fuel neutral, so, in general, there is no distinction between diesel or gasoline emission limits for conventional pollutants. In the case of diesel technology, we strongly believe that the auto industry has innovated and successfully developed proven solutions for effective emission control. Diesel can be a clean and low-emission option, and CARB has extensive experience studying and documenting the effectiveness of aftertreatment solutions for diesel combustion such as the diesel particle filter (DPF) and selective catalytic reduction (SCR). Both of these controls, when added to improved combustion designs in engines fueled by ultra-low sulfur diesel fuel, have been widely demonstrated in various studies conducted in the field and in the dynamometer laboratory, of heavy-duty and light-duty vehicle applications in the U.S. and abroad. And as described in a previous response, California has in place a

number of in-use compliance testing activities to ensure emission performance adheres to regulatory requirements. Sanctions and penalties for non-compliance with emission standards are clearly delineated in State law and CARB's enforcement program and staff works to ensure compliance with State regulations.

Could you please tell us what the relationship between CARB and the EPA is? What enforcement powers does CARB hold? EPA did not agree for instance that separate California standards for greenhouse gases were not necessary to address the nationwide problem of greenhouse gas emissions and the state is suing the federal government to overturn this decision. Are there any other examples of regulatory ideas at state level that have not been permitted by the federal government? Are there any other provisions as regards pollutants that have stricter limits in California than nationwide?

Under the U.S. Clean Air Act, California has separate and unique authority to set and enforce its own motor vehicle emission standards. In turn, other states in the U.S. have the option to follow either California or federal requirements. In furtherance of our independent clean air mandate, CARB maintains a strong partnership with U.S. EPA. Historically, California has adopted more stringent emission standards, given our severe air pollution challenges. Today, the only areas in the U.S. in extreme non-attainment of federal, health-based ambient air quality standards are in California. Thus, CARB proactively and aggressively pursues options for pollution reductions that are technically feasible and cost-effective, but that may be different from actions by the federal government. In general, CARB and the U.S. EPA enjoy a deep level of cooperation that has resulted today in a common national program for criteria and GHG emissions from light duty vehicles with nearly identical state and federal requirements. Our coordinated efforts also benefit the heavy-duty sector, for which California and federal standards for air pollution and GHG emissions are harmonized. Going forward, CARB expects to continue advancing towards our clean air and climate goals by fostering a close partnership with U.S. EPA. Your example may be referring to one unique case in recent time where, under the Bush Administration, California was denied a waiver approval from the U.S. federal government for implementation of what, at the time, were the very first GHG emission standards for light-duty vehicles in the nation. That waiver denial was subsequently addressed by the Obama Administration and since then, California and federal emission standards have successfully achieved a large degree of alignment of program requirements. CARB looks forward to continued collaboration and strong ties with U.S. EPA.

Committee of Inquiry into Emission Measurements in the Automotive Sector
The Chair

Dr. Alberto Ayala
Deputy Executive Officer
California Air Resources Board
1001 Sacramento
California 95812
United States

D 315102 22.08.2016

Ref : GEDA D(2016) 35330 NK/mm

Subject: European Parliament Committee of Inquiry into Emission Measurements in the Automotive Sector (EMIS) - written questions to the California Air Resources Board

Dear Dr Ayala,

I am writing to you in relation to my letter to the California Air Resources Board (CARB) dated 2 June 2016 inviting a representative of CARB to attend an EMIS Committee hearing scheduled for 26 September 2016 with the confirmed participation of the U.S. Environmental Protection Agency.

As I have mentioned in my earlier formal invitation, the EMIS Committee was set up by the European Parliament on 17 December 2015 in order to investigate in detail alleged contraventions and maladministration in relation to emission measurements in the automotive sector.

Since the revelations that prompted the creation of EMIS originated in the USA, the participation and input from one of the main actors in the US type-approval system would be particularly valuable for our committee. It would provide the EMIS Members with a comparative perspective on the organisation and functioning of the US and EU type-approval systems.

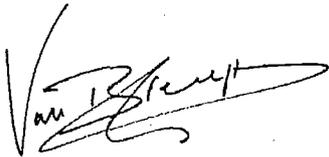
However, it is my understanding that as a result of the still ongoing proceedings on this issue, CARB has decided at this stage not to participate in the EMIS hearing. As much as I regret this decision I do respect the position taken as well as your expressed openness to other forms of collaboration between our institutions.

To this end, given that we will not be able to hold exchanges of views in a formal hearing, I would like to kindly request that CARB agrees to answer a few written questions that will

help the EMIS Committee gather the relevant knowledge necessary to successfully fulfil its mandate. You will find the written questions annexed to this letter and we would very much appreciate if you could send us your replies by Monday 19 September as was indicated in the official invitation.

The staff of the EMIS Committee Secretariat remain at your disposal for any clarifications and I thank you in advance for your input.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Van Brempt', with a stylized flourish extending to the right.

Kathleen VAN BREMPT

Annexes: 1) Invitation letter of 2 June 2016
2) Written questions for CARB



Written questions to California Air Resources Board (CARB)

No	Question
1.	<p>The research service of the European Parliament analysed the legal obligations in relation to emission measurements in the EU automotive sector. It concluded that: "Independent in service conformity re-testing and the publication of the results, in particular, will give rise to a situation where OEMs are keen to ensure the proper functioning of emission abatement systems under real driving conditions. As a result, OEMs will strive to optimise their exhaust gas systems on the basis of real driving conditions and not in emission test situations on test benches." Are test results in the US public? Is there independent re-testing in the US? If so, does it exercise a pressure on OEMs to focus on real driving conditions instead of the laboratory tests that the US uses?</p>
2.	<p>Where would you see the strengths and weaknesses in the U.S. vehicle emission testing and enforcement schemes? What does the regulator plan to improve in the near future? What does the EU need to improve in its regulation? Do you discuss differences in technologies of emission reduction systems with your European counterparts, or authorities of the EU member states or other authorities worldwide?</p>
3.	<p>Have you tested vehicles from GM or Fiat-Chrysler that use the same European diesel technology? Have you found any irregularities in their emission behaviour?</p>
4.	<p>In the aftermath of the VW revelations, other European manufacturers - BMW, Renault, Daimler, Opel, Fiat etc. - have been accused and come under suspicion of changing the performance of vehicle emission control system during the real-world operation by using the so called 'thermo windows'. It has become clear that there is a broad range of temperature limits used to reduce the effectiveness of EGR technology (e.g. below 10°C - Daimler or below 17°C - Renault and Opel). The definition of a defeat device is practically identical in the US and EU. Could you please tell us whether, according to your expertise, the use of a thermo window could be considered a defeat device or as an exception to the general prohibition due to the need to protect the engines in certain conditions? Could you please elaborate on the main differences between the US and EU regulatory approach with regards to implementing and enforcing the ban on defeat devices?</p>

No	Question
5.	<p>In 1998 you launched "San Diego Old Vehicle Buy Back Program", which intended to remove the oldest, most polluting vehicles from the road, and was an incentive for consumers to buy new cleaner models. Did it have a positive impact on air quality, and if so, did you re-launched a similar type of programmes in later years?</p>
6.	<p>Have you agreed with VW on any timetable of modifying almost 500,000 cars, which do not fulfil current emission standards? Has VW provided you with any, be it partial, proposals on how these cars will be technically modified? If so, can you share with us these proposed solutions?</p>
7.	<p>Whereas EURO 6 standards are similar in stringency to Tier 2 standards, both the US Tier 2 and US Tier 3 emission standards for light-duty vehicles (closely aligned with CA LEV III standards) include most importantly a fleet average NMOG+NOx limit that must be met by each manufacturer. It means each vehicle is certified to a per-vehicle so called .bin standard and values are sales weighted to calculate fleet-average emissions. This standard was signed into law on March 3, 2014 and is to be phased-in over the period from 2017 through 2025 (to reach 30 mg/mi in 2025). The US standard is the same for gasoline and diesel engines. This final Tier 3 fleet average limit is applicable to all vehicle categories—unlikely to the Tier 2 regulation that allowed more relaxed fleet average emissions from heavier vehicle categories. The Tier 3 standards apply over a useful life of 150,000 miles (around 257. 495 km) or 15 years, whichever occurs first. This requirement is identical to the California LEV III program approach.</p> <p>Do you see the use of fleet average as the effective enforcement tool to provide manufacturers with greater flexibility and motivation for marketing significantly cleaner vehicles in comparison to Euro 5 and Euro 6 which are based on maximum limits to stay in force for multiple years until new standards are introduced? What are in your views the major differences to the EU model with maximum limit values set as regards mechanisms you may wish to underline in explaining the motivation drivers for the manufacturers?</p>
8.	<p>What has been the nature of the contacts and information exchanges between the CARB and European scientists/engineers/EC officials (including JRC) or Member States representatives with regards to the problems of diesel vehicles emission discrepancies between level on the road and during laboratory testing? Did JRC and CARB have any form of cooperation regarding testing of vehicles emissions, and did CARB ever inform the JRC about the problems of diesel vehicles emission discrepancies between road and laboratory, and the use of defeat devices? Was the problem of the use of defeat devices that reduce the effectiveness of after-treatment technology and the need to develop testing and regulatory practices that would ensure they are not in use, ever discussed between the US and the EU?</p>

No.	Question
9.	<p>CARB has tested several diesel cars with NOx-PEMS. Could you please describe the measuring techniques and devices and the calibration of the analysers? During the previous hearings the EMIS committee has been informed that the drifting of zero is a significant factor on the measurements. Is this really the case? How much the zero actually drifts? Is the drifting linear? How much the upper end of the calibration line drifts? In the measurements CARB has carried out what were the factors included into the calculation of the measurement uncertainty? What was the uncertainty percentage? Were all the analysers and the monitoring set-up the kinds that are generally available (meaning no tailor-made nor "home-made" equipment used)?</p> <p>California Air Resources Board has had the opinion that the state legislature might prevent Volkswagen to offer a fully compliant fix for its faulty diesel engines. From the technical point of view, do you see fixing the excess emission possible and reliable?</p>
10.	<p>How do you control in-service emissions over the lifetime of vehicles? Do you believe that catalytic converter technology exist that would enable diesel vehicles to meet the NOx regulatory emission limit of the US and the EU in "normal use" i.e. on the road and not just in the laboratory test cycle?</p>
11.	<p>California has put in place the toughest air emissions limits for cars, with NOx limits, which are less than half those in place in EU. Is there any difference in NOx emissions limits between diesel and petrol engines? Is the technology available to allow diesel vehicles to respect the limits? Are those limits measured at the tailpipe or on the dynamometer? How could you be sure that circulating diesel cars are in conformity with type-approval emissions limits? Which sanctions can be applied to carmakers whose vehicles do not respect emission limits?</p>
12.	<p>Could you please tell us what the relationship between CARB and the EPA is? What enforcement powers does CARB hold? EPA did not agree for instance that separate California standards for greenhouse gases were not necessary to address the nationwide problem of greenhouse gas emissions and the state is suing the federal government to overturn this decision. Are there any other examples of regulatory ideas at state level that have not been permitted by the federal government? Are there any other provisions as regards pollutants that have stricter limits in California than nationwide?</p>



Committee of Inquiry into Emission Measurements in the Automotive Sector
The Chair

Mr Richard Corey
Executive Officer
California Air Resources Board (CARB)
1001 I Street
P.O. Box 2815
Sacramento California 95812
United States

D 310555 02.06.2016

Ref : GEDA D(2016) 24170 NK/mm

Subject: Invitation to the hearing of the European Parliament Committee of Inquiry into Emission Measurements in the Automotive Sector on 26 September 2016

Dear Mr Corey,

On 17 December 2015 the European Parliament decided to set up a Committee of Inquiry to investigate in detail alleged contraventions and maladministration in relation to emission measurements in the automotive sector (the EMIS Committee).

The main scope of this investigation will concern the implementation of European legislation on motor vehicles emissions and type approval, i.e. Regulation (EC) No 715/2007 of 20 June 2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles and Directive 2007/46/EC 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. For further details, please find the mandate of the EMIS Committee annexed to this letter.

Since the revelations that prompted the creation of EMIS originated in the USA, your participation, representing one of the main actors in the US type-approval system, will be particularly valuable in order to give the EMIS Committee a comparative perspective on the organisation and functioning of the US and EU type-approval systems.

In this context, I would like to invite a representative of the California Air Resources Board (CARB) with the relevant experience to a hearing to be held during its meeting on **Monday, 26 September 2016, from 15.00 to 18.30**, at the premises of the European Parliament in Brussels.

He or she will be asked to give testimony and provide expertise in connection with the committee's mandate, by answering questions asked by its members.

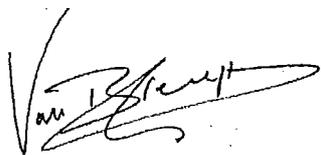
Prior to the meeting, you will receive a list of written questions by e-mail. I would be grateful if you could send us your replies by Monday, 19 September 2016. You are also welcome to submit in advance any information you deem relevant to the committee's work.

You will find attached several documents containing useful information about the format of the hearing, the work of the EMIS Committee and the travel reimbursement rules.

To confirm CARB's participation and/or request further information, please contact the EMIS Committee Secretariat administrator responsible for the hearing: Nora Kovacheva (phone: +32 2 284 2244; e-mail: nora.kovacheva@europarl.europa.eu).

I believe the contribution of your organisation will be very valuable to the work of our Committee, and I look forward to your participation in the hearing.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Van Brempt', with a stylized flourish at the end.

Kathleen VAN BREMPT

- Annexes:*
- 1) *Draft programme for the EMIS meeting on 26 September 2016*
 - 2) *Format of EMIS hearings and practical information*
 - 3) *Mandate of the EMIS Committee*
 - 4) *Rule 198 of, and Annex VIII to, the European Parliament Rules of Procedure*
 - 5) *Rules on reimbursement of travel expenses and reimbursement claim form*

**COMMITTEE OF INQUIRY INTO EMISSION
MEASUREMENTS IN THE AUTOMOTIVE SECTOR (EMIS)**

DRAFT PROGRAMME

Monday, 26 September 2016

15h00 - 18h30

European Parliament, Brussels

room (TBC)

(NB: timing is indicative only)

1.

15:10 - 16:50

**Hearing of Mr Christopher Grundler, Director of
Transportation and Air Quality Control**

Environmental Protection Agency (EPA), USA

2.

16:50 - 18:30

**Hearing of representative of California Air Resources Board
(CARB), USA**

Annex II

Information about the EMIS Committee hearing on 26 September 2016

Dear Mr Corey,

Thank you for accepting our invitation to participate in the EMIS Committee hearing, for which you will find practical details below.

A. Venue

European Parliament

Brussels

Room (tbc)

Monday, 26 September 2016, 15.00 – 18.30

B. Prior to the hearing

Please provide the EMIS secretariat (see contact details below) with the following information by **Monday, 19 September 2016** at the latest:

1. Contact and accreditation details

Please provide us with a **mobile phone number** in case of an emergency on the day of the meeting.

In order to issue an access badge for Parliament's buildings, we also need the **full name, date of birth, nationality and ID card / passport number** of the CARB expert to attend the hearing.

2. Curriculum vitae

Please send us a **short CV** of the CARB expert to attend the hearing, which will be distributed to the committee members.

3. Written answers

Please send **written replies** to the questions you received in advance of the hearing.

4. Other documents

Please send us in advance any **opening presentation** used (or a short summary), together with any relevant written information for inclusion in the committee members' meeting folder.

C. On the day of the hearing

1. Arrival

You will be welcomed by a member of our staff on **Monday, 26 September 2016 at 14:30 in front of the accreditation centre**, on the right side of the **main entrance of the European Parliament's Altiero Spinelli building** in Brussels (located on the Simone Veil Agora, along one side of Place du Luxembourg), and accompanied to the meeting room.

2. Format

The hearing lasts approximately **1 hour and 40 minutes**.

After being introduced by the Chair, the guest is invited to make a brief oral opening statement which should not exceed **10 minutes**. If you wish to give a PowerPoint presentation, please inform the secretariat in advance.

Committee members then ask questions according to the 'ping-pong' principle, with the answer being given immediately after each question.

Questions are first asked by the rapporteurs (Pablo Zalba Bidegain and Gerben-Jan Gerbrandy), followed by one representative of each political group. Questions are asked in **five-minute slots**: a maximum of one minute for each question, with the remaining time for the answer. The committee member asking the question is allowed to interrupt the guest to put a **follow-up question**, but this does not extend the total five-minute limit.

In the **second round**, questions are asked in **three-minute slots**: a maximum of 45 seconds for each question, with the remaining time for the answer.

The Chair may intervene when needed in order to elicit a precise answer to a question asked by a committee member (this does not count towards the time limit).

In view of the need for simultaneous interpretation, please speak **slowly and clearly**.

Please note that the meeting will be open to the public and will be webstreamed live on Parliament's website: http://www.europarl.europa.eu/eplive/public/default_en.htm.

D. After the hearing

Should you require **reimbursement** of expenses incurred as a result of your participation in the hearing, please see the attached **rules on reimbursement** of expenses for speakers at Parliament hearings, the travel expenses reimbursement claim form and the financial identification form. Please read Annex 5 carefully and **fill in, sign and submit your claim forms together with original receipts**.

E. Contact details

For organisational questions, please contact Marcia Maguire (e-mail: marcia.maguire@europarl.europa.eu, tel: +32 2 284 61 77).

For other matters relating to your participation, please contact Nora Kovacheva (e-mail: nora.kovacheva@europarl.europa.eu, phone: +32 2 284 22 44).

DECISIONS

DECISION (EU) 2016/34 OF THE EUROPEAN PARLIAMENT

of 17 December 2015

on setting up a Committee of Inquiry into emission measurements in the automotive sector, its powers, numerical strength and term of office

THE EUROPEAN PARLIAMENT,

- having regard to the request presented by 283 Members for a committee of inquiry to be set up to investigate alleged contraventions and maladministration in the application of Union law in relation to emission measurements in the automotive sector;
 - having regard to the proposal by the Conference of Presidents,
 - having regard to Article 226 of the Treaty on the Functioning of the European Union,
 - having regard to Decision 95/167/EC, Euratom, ECSC of the European Parliament, the Council and the Commission of 19 April 1995 on the detailed provisions governing the exercise of the European Parliament's right of inquiry ⁽¹⁾,
 - having regard to 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 ⁽²⁾,
 - having regard to 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 ⁽³⁾,
 - having regard to Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe ⁽⁴⁾, and ongoing infringement procedures in respect of it,
 - 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 ⁽⁵⁾,
 - having regard to its resolution of 27 October 2015 on emission measurements in the automotive sector ⁽⁶⁾, which calls for a thorough investigation regarding the role and responsibility of the Commission and of Member States' authorities, bearing in mind, inter alia, the problems established in the 2011 report of the Commission's Joint Research Centre,
 - having regard to the draft Commission Regulation amending Regulation (EC) No 692/2008 as regards emissions from light passenger and commercial vehicles (Euro 6) (D042120),
 - having regard to the opinion delivered on 28 October 2015 by the Technical Committee — Motor Vehicles (TCMV) established by Article 40(1) of Directive 2007/46/EC,
 - having regard to Rule 198 of its Rules of Procedure,
1. Decides to set up a Committee of Inquiry to investigate alleged contraventions and maladministration in the application of Union law in relation to emission measurements in the automotive sector, without prejudice to the jurisdiction of national or Union courts;

⁽¹⁾ OJ L 113, 19.5.1995, p. 1.⁽²⁾ OJ L 171, 29.6.2007, p. 1.⁽³⁾ OJ L 263, 9.10.2007, p. 1.⁽⁴⁾ OJ L 152, 11.6.2008, p. 1.⁽⁵⁾ OJ L 140, 5.6.2009, p. 1.⁽⁶⁾ Texts adopted, P8_TA(2015)0375.

2. Decides that the Committee of Inquiry shall:

- investigate the alleged failure of the Commission to comply with the obligation imposed by Article 14(3) of Regulation (EC) No 715/2007 to keep under review the test cycles used to measure emissions and to adapt them, if they are no longer adequate or no longer reflect real world emissions, so as to adequately reflect the emissions generated by real driving on the road, despite information relating to serious and persistent exceedances of the emissions limit values for vehicles in normal use, in contravention of the obligations set out in Article 5(1) of Regulation (EC) No 715/2007, including the Commission's Joint Research Centre's reports of 2011 and 2013 and research by the International Council on Clean Transportation (ICCT) made available in May 2014;
- investigate the alleged failure of the Commission and the Member States' authorities to take proper and effective action to oversee the enforcement of, and to enforce, the explicit ban on defeat devices, as provided for in Article 5(2) of Regulation (EC) No 715/2007;
- investigate the alleged failure of the Commission to introduce tests reflecting real-world driving conditions in a timely manner and to adopt measures addressing the use of defeat mechanisms, as provided for in Article 5(3) of Regulation (EC) No 715/2007;
- investigate the alleged failure of Member States to lay down provisions on effective, proportionate and dissuasive penalties applicable to manufacturers for infringements of the provisions of Regulation (EC) No 715/2007, including the use of defeat devices, the refusal to provide access to information, and the falsification of test results for type-approval or in-service conformity, as required by Article 13(1) and (2) of that Regulation;
- investigate the alleged failure of the Member States to take all measures necessary to ensure that the provisions on penalties applicable for infringements of Regulation (EC) No 715/2007 are implemented as required by Article 13(1) of that Regulation;
- collect and analyse information to ascertain whether the Commission and the Member States had evidence of the use of defeat mechanisms before the Notice of Violation issued by the Environmental Protection Agency of the United States of America on 18 September 2015;
- collect and analyse information on the implementation by the Member States of the provisions of Directive 2007/46/EC, in particular as regards Article 12(1) and Article 30(1), (3) and (4);
- collect and analyse information to ascertain whether the Commission and Member States had evidence of defeat devices being used for CO₂ emissions tests;
- make any recommendations that it deems necessary in this matter;

3. Decides that the Committee of Inquiry shall present an interim report within 6 months of starting its work and shall submit its final report within 12 months of starting its work;

4. Decides that the Committee of Inquiry shall have 45 members;

5. Instructs its President to arrange for publication of this decision in the *Official Journal of the European Union*.

Rules of Procedure of the European Parliament

Rule 198 and Annex VIII

1) Rule 198 : Committees of inquiry

1. Parliament may, at the request of one quarter of its component Members, set up a committee of inquiry to investigate alleged contraventions of Union law or alleged maladministration in the application of Union law which would appear to be the act of an institution or body of the European Union, of a public administrative body of a Member State, or of persons empowered by Union law to implement that law.

The decision to set up a committee of inquiry shall be published in the *Official Journal of the European Union* within one month. In addition, Parliament shall take all the necessary steps to make this decision as widely known as possible.

2. The modus operandi of a committee of inquiry shall be governed by the provisions of these Rules relating to committees, save as otherwise specifically provided for in this Rule and in the Decision of the European Parliament, the Council and the Commission of 19 April 1995 on the detailed provisions governing the exercise of the European Parliament's right of inquiry, which is annexed to these Rules⁽¹⁾.

3. The request to set up a committee of inquiry must specify precisely the subject of the inquiry and include a detailed statement of the grounds for it. Parliament, on a proposal from the Conference of Presidents, shall decide whether to set up a committee and, if it decides to do so, on its composition, in accordance with Rule 199.

4. A committee of inquiry shall conclude its work by submitting a report within not more than 12 months. Parliament may twice decide to extend this period by three months.

Only full members or, in their absence, permanent substitutes may vote in a committee of inquiry.

5. A committee of inquiry shall elect its Chair and two Vice-Chairs and appoint one or more rapporteurs. The committee may also assign responsibilities, duties or specific tasks to its members who must subsequently report to the committee in detail thereon.

In the interval between one meeting and another, the bureau of the committee shall, in cases of urgency or need, exercise the committee's powers, subject to ratification at the next meeting.

6. If a committee of inquiry considers that any of its rights have been infringed, it shall propose that the President take appropriate measures.

7. A committee of inquiry may contact the institutions or persons referred to in Article 3 of the Decision referred to in paragraph 2 with a view to holding a hearing or obtaining documents.

The travel and accommodation expenses of members and officials of Union institutions and bodies shall be borne by those institutions and bodies. Travel and accommodation expenses of other persons who appear before a committee of inquiry shall be reimbursed by the European Parliament in accordance with the rules governing hearings of experts.

Persons called to give evidence before a committee of inquiry may claim the rights they would enjoy if appearing as a witness before a tribunal in their country of origin. They must be informed of these rights before they make a statement to the committee.

With regard to the languages used, a committee of inquiry shall apply the provisions of Rule 158. However, the bureau of the committee:

- may restrict interpretation to the official languages of those taking part in the deliberations, if it deems this necessary for reasons of confidentiality,

- shall decide about translation of the documents received in such a way as to ensure that the committee can carry out its deliberations efficiently and rapidly and that the necessary secrecy and confidentiality are respected.

8. The Chair of a committee of inquiry shall, together with the bureau, ensure that the secrecy or confidentiality of deliberations are respected and shall give members due notice to this effect.

The Chair shall also explicitly refer to the provisions of Article 2(2) of the Decision referred to above. Part A of Annex VII to these Rules of Procedure shall apply.

9. Secret or confidential documents which have been forwarded shall be examined using technical measures to ensure that only the members responsible for the case have personal access to them. The members in question shall give a solemn undertaking not to allow any other person access to secret or confidential information, in accordance with this Rule, and to use such information exclusively for the purposes of drawing up their report for the committee of inquiry. Meetings shall be held on premises equipped in such a way as to make it impossible for any non-authorised persons to listen to the proceedings.

10. After completion of its work a committee of inquiry shall submit to Parliament a report on the results of its work, containing minority opinions if appropriate in accordance with the conditions laid down in Rule 56. The report shall be published.

At the request of the committee of inquiry Parliament shall hold a debate on the report at the part-session following its submission.

The committee may also submit to Parliament a draft recommendation addressed to institutions or bodies of the European Union or the Member States.

11. The President shall instruct the committee responsible under Annex VI to monitor the action taken on the results of the work of the committee of inquiry and, if appropriate, to report thereon, and shall take any further steps which are deemed appropriate to ensure that the conclusions of the inquiry are acted upon in practice.

Only the proposal from the Conference of Presidents concerning the composition of a committee of inquiry (paragraph 3) is open to amendment, in accordance with Rule 199(2).

The subject of the inquiry as defined by one quarter of Parliament's component Members (paragraph 3) and the period laid down in paragraph 4 are not open to amendments.

2) ANNEX VIII : Detailed provisions governing the exercise of the European Parliament's right of inquiry

Decision of the European Parliament, the Council and the Commission of 19 April 1995 on the detailed provisions governing the exercise of the European Parliament's right of inquiry¹

The European Parliament, the Council and the Commission,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 20b thereof,

Having regard to the Treaty establishing the European Community, and in particular Article 193 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 107b thereof,

Whereas the detailed provisions governing the exercise of the European Parliament's right of inquiry should be determined with due regard for the provisions laid down by the Treaties establishing the European Communities;

Whereas temporary committees of inquiry must have the means necessary to perform their duties; whereas, to that end, it is essential that the Member States and the institutions and bodies of the European Communities take all steps to facilitate the performance of those duties;

Whereas the secrecy and confidentiality of the proceedings of temporary committees of inquiry must be protected;

Whereas, at the request of one of the three institutions concerned, the detailed provisions governing the exercise of the right of inquiry may be revised as from the end of the current term of the European Parliament in the light of experience,

HAVE BY COMMON ACCORD ADOPTED THIS DECISION:

Article 1

The detailed provisions governing the exercise of the European Parliament's right of inquiry shall be as laid down by this Decision, in accordance with Article 20b of the ECSC Treaty, Article 193 of the EC Treaty and Article 107b of the EAEC Treaty.

Article 2

1. Subject to the conditions and limits laid down by the Treaties referred to in Article 1 and in the course of its duties, the European Parliament may, at the request of one quarter of its Members, set up a temporary committee of inquiry to investigate alleged contraventions or maladministration in the implementation of Community law which would appear to be the act of

¹ OJ L 113, 19.5.1995, p. 1.

an institution or a body of the European Communities, of a public administrative body of a Member State or of persons empowered by Community law to implement that law.

The European Parliament shall determine the composition and rules of procedure of temporary committees of inquiry.

The decision to set up a temporary committee of inquiry, specifying in particular its purpose and the time limit for submission of its report, shall be published in the *Official Journal of the European Communities*.

2. The temporary committee of inquiry shall carry out its duties in compliance with the powers conferred by the Treaties on the institutions and bodies of the European Communities.

The members of the temporary committee of inquiry and any other persons who, by reason of their duties, have become acquainted with facts, information, knowledge, documents or objects in respect of which secrecy must be observed pursuant to provisions adopted by a Member State or by a Community institution shall be required, even after their duties have ceased, to keep them secret from any unauthorised person and from the public.

Hearings and testimony shall take place in public. Proceedings shall take place in camera if requested by one quarter of the members of the committee of inquiry, or by the Community or national authorities, or where the temporary committee of inquiry is considering secret information. Witnesses and experts shall have the right to make a statement or provide testimony in camera.

3. A temporary committee of inquiry may not investigate matters at issue before a national or Community court of law until such time as the legal proceedings have been completed.

Within a period of two months either of publication in accordance with paragraph 1 or of the Commission being informed of an allegation made before a temporary committee of inquiry of a contravention of Community law by a Member State, the Commission may notify the European Parliament that a matter to be examined by a temporary committee of inquiry is the subject of a Community prelitigation procedure; in such cases the temporary committee of inquiry shall take all necessary steps to enable the Commission fully to exercise the powers conferred on it by the Treaties.

4. The temporary committee of inquiry shall cease to exist on the submission of its report within the time limit laid down when it was set up, or at the latest upon expiry of a period not exceeding twelve months from the date when it was set up, and in any event at the close of the parliamentary term.

By means of a reasoned decision the European Parliament may twice extend the twelve-month period by three months. Such a decision shall be published in the *Official Journal of the European Communities*.

5. A temporary committee of inquiry may not be set up or re-established with regard to matters into which an inquiry has already been held by a temporary committee of inquiry until at least twelve months have elapsed since the submission of the report on that inquiry or the end of its assignment and unless any new facts have emerged.

Article 3

1. The temporary committee of inquiry shall carry out the inquiries necessary to verify alleged contraventions or maladministration in the implementation of Community law under the conditions laid down below.

2. The temporary committee of inquiry may invite an institution or a body of the European Communities or the Government of a Member State to designate one of its members to take part in its proceedings.

3. On a reasoned request from the temporary committee of inquiry, the Member States concerned and the institutions or bodies of the European Communities shall designate the official or servant whom they authorise to appear before the temporary committee of inquiry, unless grounds of secrecy or public or national security dictate otherwise by virtue of national or Community legislation.

The officials or servants in question shall speak on behalf of and as instructed by their Governments or institutions. They shall continue to be bound by the obligations arising from the rules to which they are subject.

4. The authorities of the Member States and the institutions or bodies of the European Communities shall provide a temporary committee of inquiry, where it so requests or on their own initiative, with the documents necessary for the performance of its duties, save where prevented from doing so by reasons of secrecy or public or national security arising out of national or Community legislation or rules.

5. Paragraphs 3 and 4 shall be without prejudice to any other provisions of the Member States which prohibit officials from appearing or documents from being forwarded.

An obstacle arising from reasons of secrecy, public or national security or the provisions referred to in the first subparagraph shall be notified to the European Parliament by a representative authorised to commit the Government of the Member State concerned or the institution.

6. Institutions or bodies of the European Communities shall not supply the temporary committee of inquiry with documents originating in a Member State without first informing the State concerned.

They shall not communicate to the temporary committee of inquiry any documents to which paragraph 5 applies without first obtaining the consent of the Member State concerned.

7. Paragraphs 3, 4 and 5 shall apply to natural or legal persons empowered by Community law to implement that law.

8. In so far as is necessary for the performance of its duties, the temporary committee of inquiry may request any other person to give evidence before it. The temporary committee of inquiry shall inform any person named in the course of an inquiry to whom this might prove prejudicial; it shall hear such a person if that person so requests.

Article 4

1. The information obtained by the temporary committee of inquiry shall be used solely for the performance of its duties. It may not be made public if it contains material of a secret or confidential nature or names persons.

The European Parliament shall adopt the administrative measures and procedural rules required to protect the secrecy and confidentiality of the proceedings of temporary committees of inquiry.

2. The temporary committee of inquiry's report shall be submitted to the European Parliament, which may decide to make it public subject to the provisions of paragraph 1.

3. The European Parliament may forward to the institutions or bodies of the European Communities or to the Member States any recommendations which it adopts on the basis of the temporary committee of inquiry's report. They shall draw therefrom the conclusions which they deem appropriate.

Article 5

Any communication addressed to the national authorities of the Member States for the purposes of applying this Decision shall be made through their Permanent Representations to the European Union.

Article 6

At the request of the European Parliament, the Council or the Commission, the above rules may be revised as from the end of the current term of the European Parliament in the light of experience.

Article 7

This Decision shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

Rules of reimbursement and allowances for guests/petitioners participating in hearings/committee meetings

Please note **you must obtain prior approval** from the EP services issuing the invitation for cases which derogate from the general rules as laid out below. If prior approval is not granted, **NO** reimbursement for travel and/or overnight stay allowance will be made.

For example,

- if the travel is not taking place between the usual residence/office address and the European Parliament (for both legs of the journey),
 - if it is necessary to spend more than one night in a hotel because the guest's attendance is deemed necessary for more than one day,
- these should be declared and approved prior to the travel concerned.

General rules

1. Travel expenses

Travel expenses will be reimbursed on the basis of the **shortest route between the usual residence/office address and the European Parliament (for both legs of the journey).**

Reimbursement conditions are as follows:

- up to a maximum of economy class air fare, incl. all reservation costs;
- first class rail fare, incl. all reservation costs;
- first class ticket for journeys necessitating travel by sea or river, incl. all reservation costs;
- first class rail fare applies where the expert uses his or her car ;
- a flat rate allowance of € 50 to cover travel costs between the usual residence/office address and the nearest airport/station.

Reimbursement will solely be made upon presentation of original tickets and boarding passes. A declaration of honour must be submitted if travelling by private car.

2. Daily allowance

The guest/petitioner shall be entitled to:

- € 75 for the day of the meeting to cover all miscellaneous expenses, or
- € 200 if one overnight stay is necessary at the venue of the hearing (**on presentation of the original hotel bill to be attached to the request for reimbursement**). In this case, the guest is entitled to the allowance for the night preceding a hearing that starts in the morning and for the night following a hearing that takes place in the afternoon.

3. Method of payment

By bank transfer **ONLY**.

Please be informed that the EU Financial Rules require the European Parliament to verify the holder of any bank account into which payments are made. You are therefore kindly requested to submit the *financial identification form* duly completed, (see annex) and, if possible, signed and stamped by your bank (or accompanied by a copy of a recent bank statement).



TRAVEL EXPENSES REIMBURSEMENT CLAIM

Committee:	Date of Hearing/Meeting:
<i>Name:</i>	
<i>Address:</i>	
<i>representing (if applicable)</i>	

<u>TRAVEL DETAILS</u>		
from:	to:	amount:
train (tickets attached)		
flight (economy) tickets and boarding passes attached		
Personal car (declaration of honour attached)		
Other (ticket attached)		
Overnight stay (hotel bill attached)	YES / NO	

BANK DETAILS : please fill in financial identification form (attached)

I hereby declare that I have not been reimbursed my travel expenses by any other party and that the information supplied by me is correct.

Date: _____ Signature: _____

Certified correct	<i>(to be filled in by EP staff)</i>
Name of Committee Assistant:	
Date:	Signature:

**LEGAL ENTITY
INDIVIDUAL**

NAME																									
FIRST NAME																									
ADDRESS Street																									
Number													Postcode												
Town / City																					Country				
VAT N°													(If this field is completed, please attach an official VAT document)												
PHONE													FAX												
E-MAIL																									

A legible photocopy of the identity card or passport must be provided

ACCOUNT NAME

NAME																								
(The name under which the account has been opened)																								

BANK

IBAN																									
(Obligatory, if the IBAN Code exists in the country where your bank is established)																									
SWIFT CODE (BIC)													CURRENCY												
ACCOUNT NUMBER																									
(National Format, if IBAN code does not exist)																									
BANK NAME																									
ADDRESS Street																									
Number													Postcode												
Town / City																					Country				

BANK STAMP + SIGNATURE OF BANK REPRESENTATIVE *

* It is preferable to attach a copy of recent bank statement. Please note that the bank statement has to provide all the information listed above under 'ACCOUNT NAME' and 'BANK'. In this case, the stamp of the bank and the signature of the bank's representative are not required.

DATE + SIGNATURE OF ACCOUNT HOLDER

(Obligatory)

I certify that the information provided is true and accurate.