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From:	Presidency
To:	Council
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Subject:	Proposal for a Regulation of the European Parliament and the Council on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (First reading) - Information Note from the Presidency

I. INTRODUCTION

1. On 28 January 2016, the Commission transmitted the above-mentioned proposal for a Regulation to the European Parliament and to the Council.
2. The objective of this Regulation is to revise the legal framework for the type-approval of motor-vehicles and their trailers, which is set out in the Framework Directive 2007/46/EC of the European Parliament and of the Council. The revision needs to be seen against the background of new technologies available on the market and also against recent events concerning the irregularities of car emission data. The Commission proposal also addresses the flaws discovered in a "fitness check" of the current legislation, which the Commission carried out in 2013. Consequently, the proposal also tries to do away with possible differences in the interpretation and application of the legal provisions by national type-approval authorities and technical services.

The revision of the current legal framework has a strong link to the Real Driving Emissions (RDE) regulatory package, as the package also addresses, inter alia, the problem of car emission irregularities.

3. The proposed Regulation maintains the objective of Directive 2007/46/EC, namely to facilitate the free movement of motor vehicles and trailers in the internal market and applying the principle of mutual recognition, by laying down harmonised type-approval requirements. The aim is to achieve an adequate level of safety and environmental performance of motor vehicles and to address the main shortcomings identified in the existing type-approval system. Therefore, most elements from Directive 2007/46/EC are carried over in the proposed Regulation. Substantial changes have been introduced in the following areas:
 - Strengthening of the independence and quality of testing that allows a car to be placed on the market through the reinforcement of provisions concerning technical services;
 - Introduction of an effective market surveillance system to control the conformity of cars already available on the market, with the possibility for Member States and the Commission to carry out spot-checks on vehicles in order to detect non-compliance at an early stage;
 - Reinforcement of the type-approval system with greater European oversight in the type-approval process, in particular through the establishment of a Forum for the exchange of information on enforcement made up of representatives of national approval and market surveillance authorities. Furthermore, the Commission will be given the possibility to carry out tests itself.
3. The Working Party on Technical Harmonisation (Motor Vehicles) has examined this proposal on 12 occasions during the Dutch and Slovak Presidencies.
4. The impact assessment accompanying this proposal was examined in detail on 9 and 21 March 2016, especially focusing on aspects for which delegations requested further clarifications. On the basis of answers to the checklist certain specific issues were also identified which required particular attention and an in-depth discussion.

5. The European Economic and Social Committee issued its opinion on 25 May 2016.
6. In the European Parliament the main responsible committee is the Committee on the Internal Market and Consumer Protection (IMCO). Rapporteur is Mr Daniel Dalton (ECR-UK). IMCO is expected to vote its report on 26 January 2017.

II. MAIN CHANGES TO THE TEXT

7. Discussions at Working Party meetings have so far resulted in :
 - clarifying and complementing a number of technical provisions, in particular the Articles concerning the general provisions on the certificate of conformity both in paper and electronic format;
 - simplifying the system for registration or entry into service of end-of-series vehicles (Article 47);
 - clarifying that there is an obligation for Member States to finance market surveillance activities but that the means to be used to that purpose should be left to Member States (Article 30);
 - turning a large number of delegated acts into implementing acts.

Following some minor adjustments and modifications, delegations, at Working Party level, indicated that they could support the current drafting of Chapters XI, XII and XIII.

III. OUTSTANDING ISSUES

8. In the view of the Presidency, the main difficulty within this file lies in the fact that two blocks of countries appear divided on the approach to be followed for the revision of the type-approval system for motor vehicles. While several delegations are in favor of significant changes to the type-approval system and to the market surveillance rules along the lines of the Commission proposal, a majority of delegations continue to have serious misgivings on several points which touch upon important aspects of the proposal and would rather opt for a minimal adaptation of the existing type-approval rules.

9. This is particularly the case for the following provisions:

(a) Compliance verification through the Commission (Art. 9)

Several Presidency compromise proposals tried to clarify the limits of the new role to be conferred to the Commission. However, a significant number of delegations continue to express serious doubts on the added-value of this provision and insist on a mere coordinating role for the Commission to exchange knowledge and know-how. Other delegations consider that a new monitoring role should be granted to the Commission in order to increase the level of independence in the compliance verification and thereby ensure uniform application of the rules across the Member States;

(b) Forum for Exchange of Information on Enforcement (Art. 10)

The Commission proposal foresees the creation of a Forum for Exchange of Information on Enforcement. The Forum should have an advisory role on, inter alia, good practices, cooperation, tools and working measures and on enforcement. Delegations are divided between those who consider the Forum as an exchange platform and those who conceive it as an enforcement tool;

(c) Validity of the type-approval certificate (Art. 33)

The Commission proposes to limit the validity of the type-approval certificate to 5 years. Several delegations question the added-value of such a limitation and advocate maintaining the existing regime with no limitation of the validity. Other delegations insist on the need to specify that the type-approval certificate is due to expire after a certain period. The Presidency proposes a period of 8 years for the vehicle categories M1 and N1 which could be renewed for another 5 years under certain conditions;

(d) Peer-review of type approval authorities (Art. 71)

Another new element in the Commission proposal is the concept of peer-reviews of type-approval authorities. Member States are divided between those that see it as a contribution to an increased uniform enforcement of the rules and those that reject it on the grounds that it would create unjustified administrative burden;

(e) Assessment and designation of technical services (Art. 77)

Although progress has been made on this issue, there are still doubts about certain aspects of this procedure, namely the proposed involvement of the national accreditation bodies in the monitoring and the assessment of the technical services by accreditation bodies and the establishment of joint assessment teams. The majority of Member States still consider that these aspects require further in-depth examination.

Further discussions are needed on these items as well as on certain elements of the Annexes to the draft legal instrument.

IV. CONCLUSION

9. The Presidency intends to continue the examination at Working Party level with a view to making progress on the remaining outstanding technical and political issues until the end of its term. In the view of the Presidency, the progress achieved so far constitutes a sound basis for further work on this file, provided that the main outstanding political issues mentioned above can be sorted out rapidly.
10. The Council is, therefore, invited to take note of the above report on the state of play of the examination of the proposal on type-approval of motor vehicles.
