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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	17 May 2018
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
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Subject:	Proposal for a DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Council Directive 96/53/EC as regards the time limit for the implementation of the special rules regarding maximum length in case of cabs delivering improved aerodynamic performance, energy efficiency and safety performance

Delegations will find attached document COM(2018) 275 final.

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Proposal for a

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Council Directive 96/53/EC as regards the time limit for the implementation of the special rules regarding maximum length in case of cabs delivering improved aerodynamic performance, energy efficiency and safety performance

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Council Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum authorized dimensions in national and international traffic and the maximum authorized weights in international traffic¹ was last revised by Directive (EU) 2015/719 of the European Parliament and of the Council of 29 April 2015 laying down for certain road vehicles circulating within the Community the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic².

One of the aims of Directive (EU) 2015/719 was to improve the aerodynamics of motor vehicles falling within the scope of the Directive by allowing these to derogate from maximum lengths restrictions if certain conditions were respected. It was also the aim to adapt the legislation to technological developments and changing market needs and to facilitate intermodal transport.

The derogation from maximum length restrictions was granted for the rear of vehicles, for the mounting of aerodynamic devices³, and for the front of vehicles⁴ to allow for a more rounded and aerodynamic shape of cabs of trucks.

The present decision concerns the front of the vehicles, that is to say the cabs as contemplated in Article 9a of Directive 96/53/EC as amended by Directive (EU) 2015/719. This provision establishes a number of conditions, among which compliance of the vehicle with the turning radius requirements set out in point 1.5 of Annex I.

In its Impact Assessment⁵ accompanying the proposal for an amendment of Directive 96/53/EC⁶, the Commission identified significant benefits of granting the length derogations now contemplated in amending Directive (EU) 2015/719. Besides important aerodynamic improvements from both the aerodynamic rear devices and elongated cabs, such cabs would also provide benefits in terms of better visibility for drivers, improved safety for other road users as well as safety and comfort for drivers.

Whereas the Impact Assessment of the Commission did not suggest the necessity of a moratorium of the entry into force of elongated cabs, the final compromise between the legislators, as adopted in Article 9a(3) of Directive (EU) 2015/719, did include a moratorium for a period of 3 years.

Given the current situation, and considering that CO₂ emissions from road transport represent a quarter of all CO₂ emissions in the EU and that emissions from road transport are projected to grow by 6% in the period 2015 -2030, the Commission considers that the benefits of elongated cabs should be harvested as quickly as possible. The importance of this matter is confirmed by the proposal on CO₂ standards for heavy goods vehicles, as proposed by the Commission as part of Mobility Package III, which specifically emphasises the importance of aerodynamic cabs⁷. In fact, compliance with the future CO₂ emission standards for heavy

¹ OJ L 235, 17.9.1996, p. 59.

² OJ L 115, 6.5.2015, p. 1.

³ Article 8b

⁴ Article 9a

⁵ SWD(2013) 108 final

⁶ COM(2013) 195 final

⁷ COM(2018)284

goods vehicles will require the application of various technologies to improve the energy efficiency; among these the introduction of aerodynamic cabs is the most effective measure to reduce air drag..

However, the moratorium included in the current legislation deters manufacturers from improving aerodynamics of cabs as a way to achieve compliance with the upcoming CO2 standards for heavy goods vehicles. Moreover, the moratorium also goes against the innovation principle and the principles of better regulation as it hinders the development of new technologies and concepts.

Therefore, the Commission is proposing to shorten the time limit for the transposition of Article 9a(1) of Directive 95/53/EC. The proposed new text of Article 9a(3) would still leave sufficient time for Member States to take the necessary steps.

In this context, account has been taken of the time necessary for the adoption of the present Decision.

It should also be mentioned, first, that the change to the type approval framework contemplated in Article 9a(2) can be brought about by an amendment to Commission Regulation (EU) No 1230/2012⁸, as emerges from a closer examination of the issue. The amendment to Regulation (EU) No 1230/2012, which is estimated to be completed by end-2018, will be carried out by an implementing measure under the General Safety Regulation⁹. The new time as set out in this proposal takes account of this fact and should ensure that the national measures transposing Article 9a(1) of Directive 96/53/EC become applicable at about the same time as the amendment to Commission Regulation (EU) No 1230/2012.

Second, it is not necessary to maintain the precise sequence of changes as currently contemplated in Article 9a(3) of Directive 96/53/EC. Circulation of the vehicles concerned on the roads requires, cumulatively, changes to the type approval framework and the change as set out in article 9a(1) of Directive 96/53/EC. Transposition of the latter change does not, in and of itself, require a prior amendment to the type approval framework. It is sufficient for the national rules to provide for type approval as a condition, as set out in Article 9a(1) of Directive 96/53/EC.

The change proposed is fully in line with the Impact Assessment¹⁰ already carried out by the Commission, which – as mentioned - did not contemplate a moratorium as adopted by the co-legislators. For the same reason, there would be no need to carry out an Impact Assessment for the present proposal.

- **Consistency with existing provisions in the policy area**

This proposal is in line with, and supports, the existing policies regarding CO2 standards for heavy goods vehicles, as proposed today. It is also in line with existing policies intended to reduce the accidents and fatalities in road transport.

This proposal only advances the date from which on more aerodynamic and/or safer cabins may be used as already provided for since Directive 2015/719, it does therefore not impact on intermodal transport and the general objective to promote alternatives to road transport.

⁸ Commission Regulation (EU) No 1230/2012 of 12 December 2012 implementing Regulation (EC) No 661/2009 of the European Parliament and of the Council with regard to type-approval requirements for masses and dimensions of motor vehicles and their trailers and amending Directive 2007/46/EC of the European Parliament and of the Council, OJ L 353, 21.12.2012, p. 31.

⁹ Regulation (EU) 661/2009

¹⁰ SWD(2013) 108 final

- **Consistency with other Union policies**

The proposal contributes directly to the first political priority of the Juncker Commission: Jobs, Growth and Investment by allowing truck manufacturers and equipment suppliers to innovate and produce new models of heavy goods vehicles. This proposal is also intended to contribute to the Energy Union and Climate priority, through a lowering of emissions from heavy goods vehicles.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis for the proposed amendment is Article 91(1) of the Treaty on the Functioning of the European Union ('TFEU').

- **Subsidiarity**

The proposal is limited to adjusting the time limit set out in Article 9a(3) of Directive 96/53/EC. Such adjustment can only be brought about by the Union itself.

Moreover, distortions in the internal market can only be avoided by a single date of application of the new rules. .

- **Proportionality**

The policy proposal is proportionate to the problems that have been identified and it does not go beyond what is needed to solve them. Specifically, the measure is confined to adjusting the time limit for the transposition of Article 9a(1) of Directive 96/53/EC and, in addition, still leaves enough time for Member States to take the necessary steps.

- **Choice of the instrument**

Amendments to Directives should normally come in the same form, i.e. of amending Directives.

This particular case, however, only involves the change of a time limit imposed on Member States. That change, as such, is not liable to be transposed by Member States. Consequently, it should take the form of a Decision.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

Considering that no additional Impact Assessment is required for this proposal, reference is made to the Impact Assessment already carried out by the Commission: SWD (2013) 108 final

4. BUDGETARY IMPLICATIONS

The proposed change has no implications on the Union budget.

5. OTHER ELEMENTS

- **Detailed explanation of the specific provisions of the proposal**

The main elements of the proposal are the following:

Directive 96/53/EC

Article 9a

The current Article 9a(3) includes a 3 years moratorium for the introduction of aerodynamic cabs after the date of transposition or application of the necessary amendments as regards technical type-approval requirements.

It is proposed to adjust Article 9a(3) so as to suppress the 3 years moratorium and to come to a shorter, but proportionate time limit.

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹¹,

Having regard to the opinion of the Committee of the Regions¹²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Council Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum authorised dimensions in national and international traffic for certain road vehicles circulating within the Community and the maximum authorised weights in international traffic¹³ was amended by Directive (EU) 2015/719 of the European Parliament and of the Council¹⁴ with the aim of reducing energy consumption and greenhouse gas emissions, and to adapt the legislation to technological developments and changing market needs and to facilitate intermodal transport.
- (2) The improved aerodynamics of the cabs of motor vehicles would allow significant gains on the energy performance of vehicles. However, this improvement was impossible under the maximum length restrictions set out by Directive 96/53/EC without reducing the vehicle load capacity. Therefore, a derogation from maximum length restrictions was introduced by Directive (EU) 2015/719.
- (3) Directive (EU) 2015/719 also included a moratorium of three years for the introduction of aerodynamic cabs after the date of transposition or application of the necessary amendments as regards technical type-approval requirements.

¹¹ OJ C [...], [...], p. [...].

¹² OJ C [...], [...], p. [...].

¹³ OJ L 235, 17.9.1996, p. 59.

¹⁴ Directive (EU) 2015/719 of the European Parliament and of the Council of 29 April 2015 amending Council Directive 96/53/EC laying down for certain road vehicles circulating within the Community the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic (OJ L 115, 6.5.2015, p. 1)

- (4) With a view for the benefits of aerodynamic cabs, in terms of energy performance of heavy goods vehicles, but also in terms of better visibility for drivers, safety to other road users as well as safety and comfort for drivers, to materialise as early as possible, it is necessary to ensure that such aerodynamic cabs can be introduced without unnecessary delay, as soon as the necessary type-approval requirements are in place.
- (5) Council Directive 96/53/EC should therefore be amended accordingly,

HAVE ADOPTED THIS DECISION:

Article 1

In Article 9a of Council Directive (EU) 96/53/EC, paragraph 3 is replaced by the following:

‘(3) Paragraph 1 shall apply from [XXX] [OP please insert date: 4 months from the entry into force of the present decision].’

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,

For the European Parliament
The President

For the Council
The President