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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2016/1628 as regards its transitional provisions in order to address the impact of COVID-19 crisis – Outcome of the European Parliament's first reading (Brussels, 8 to 10 July 2020)

I. INTRODUCTION

A number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this file at first reading.

After the plenary approved the request of the Committee on Environment, Public Health and Food Safety (ENVI) to proceed according to the Rule 163 (urgent procedure) on 8 July 2020, Jens GIESEKE and Andreas SCHWAB, on behalf of the EPP Group, Jytte GUTELAND, on behalf of the S&D Group, Andreas GLÜCK, on behalf of the Renew Group, Silvia SARDONE, on behalf of the ID Group, Bas EICKHOUT, on behalf of the Greens/EFA Group, and Alexandr VONDRA, on behalf of the ECR Group presented a compromise amendment (amendment 4) to the proposal for a Regulation. This amendment had been agreed during the informal contacts referred to above.

Other three amendments were presented. Amendments 1 and 2 were presented by Alexandr VONDRA, Carlo FIDANZA on behalf of the ECR Group. Amendment 3 was presented by Silvia SARDONE on behalf of the ID Group.

II. VOTE

When it voted on 10 July 2020, the plenary rejected amendments 1 to 3 and adopted amendment 4 to the proposal for the Regulation and then adopted the proposal with this amendment in its final vote.

The Commission's proposal as thus amended constitutes the Parliament's first-reading position, which is contained in its legislative resolution as set out in the Annex hereto¹.

The Parliament's position reflects what had been previously agreed between the Institutions. The Council should therefore be in a position to approve the Parliament's position bringing to a close the first reading for both Institutions.

The legislative act would then be adopted in the wording which corresponds to the European Parliament's position.

¹ The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics***. The symbol "■" indicates deleted text.

**Transitional provisions in order to address the impact of COVID-19 crisis
(amendment of Regulation (EU) 2016/1628) ***I**

European Parliament legislative resolution of 10 July 2020 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2016/1628 as regards its transitional provisions in order to address the impact of COVID-19 crisis (COM(2020)0233 – C9-0161/2020 – 2020/0113(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2020)0233),
 - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0161/2020),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 11 June 2020²,
 - having regard to the undertaking given by the Council representative by letter of 30 June 2020 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rules 59 and 163 of its Rules of Procedure,
1. Adopts its position at first reading hereinafter set out;

² Not yet published in the Official Journal.

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Position of the European Parliament adopted at first reading on 10 July 2020 with a view to the adoption of Regulation (EU) 2020/... of the European Parliament and of the Council amending Regulation (EU) 2016/1628 as regards its transitional provisions in order to address the impact of the COVID-19 crisis

(Text with EEA relevance)

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 114 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 Committee³,

Acting in accordance with the ordinary legislative procedure⁴,

³ Opinion of 11 June 2020 (not yet published in the Official Journal).

⁴ Position of the European Parliament of 10 July 2020.

Whereas:

- (1) Regulation (EU) 2016/1628 of the European Parliament and of the Council⁵ lays down requirements relating to emission limits for gaseous and particulate pollutants and EU type-approval procedures for various categories of engines for non-road mobile machinery.
- (2) The dates applicable to the new emission limit values, referred to as ‘Stage V’ in Regulation (EU) 2016/1628, are set out in order to provide manufacturers with clear and comprehensive information and an appropriate period of time for the transition to Stage V, whilst at the same time substantially reducing the administrative burden for approval authorities.
- (3) The COVID-19 outbreak has caused a disruption in the supply chain of critical parts and components, which has led to delays for engines and machinery fitted with those engines that comply with less stringent emission limit values than those of Stage V and that need to be placed on the market before the dates set out in Regulation (EU) 2016/1628.
- (4) As a result of the disruption caused by the COVID-19 outbreak, it is very likely that non-road mobile machinery manufacturers, referred to as ‘original equipment manufacturers’ or ‘OEMs’ in Regulation (EU) 2016/1628, will not be able to ensure that engines and the machinery fitted with those engines benefiting from the transition period under Regulation (EU) 2016/1628 meet the deadlines set out in that Regulation without these manufacturers sustaining serious economic damage.

⁵ Regulation (EU) 2016/1628 of the European Parliament and of the Council of 14 September 2016 on requirements relating to gaseous and particulate pollutant emission limits and type-approval for internal combustion engines for non-road mobile machinery, amending Regulations (EU) No 1024/2012 and (EU) No 167/2013, and amending and repealing Directive 97/68/EC (OJ L 252, 16.9.2016, p. 53).

- (5) Given the current circumstances, and in order to ensure the smooth functioning of the internal market, to provide legal certainty, and to avoid potential market disruption, it is necessary to prolong certain transitional provisions of Regulation (EU) 2016/1628.
- (6) Given that the prolongation of the transitional provisions will have no environmental impact, as the transition engines concerned have already been produced, coupled with the fact that it is difficult to predict the exact duration of the delays caused by the COVID-19 disruption, the extension of the relevant periods should be 12 months.
- (7) Since the objective of this Regulation, namely to prolong certain transitional provisions of Regulation (EU) 2016/1628, cannot be sufficiently achieved by the Member States but can rather, by reason of their scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union ('TEU'). In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

- (8) In view of the urgency entailed by the exceptional circumstances caused by the COVID-19 outbreak, it was considered to be appropriate to provide for an exception to the eight-week period referred to in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the TEU, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community.
- (9) Regulation (EU) 2016/1628 should therefore be amended accordingly.
- (10) In view of the fact that the transition period provided for in Regulation (EU) 2016/1628 for certain engine sub-categories is to expire on 31 December 2020 and that OEMs *had* until 30 June 2020 to produce non-road mobile machinery fitted with transition engines of those sub-categories, this Regulation should enter into force ***as a matter of urgency*** on the day of its publication in the *Official Journal of the European Union* ***and should apply from 1 July 2020. Such an application is warranted by the unforeseeable and sudden nature of the COVID- 19 outbreak as well as by the need to ensure legal certainty and equal treatment of OEMs regardless of whether they produce non-road mobile machinery before or after the date of entry into force of this Regulation,***

HAVE ADOPTED THIS REGULATION:

Article 1

Article 58 of Regulation (EU) 2016/1628 is amended as follows:

(1) paragraph 5 is amended as follows:

(a) the second subparagraph is replaced by the following:

‘For engines of sub-categories of category NRE for which the date set out in Annex III for the placing on the market of Stage V engines is 1 January 2020, Member States shall authorise the extension of the transition period and of the 18-month period referred to in the first subparagraph by an additional 12 months for OEMs with a total yearly production of less than 100 units of non-road mobile machinery equipped with internal combustion engines. For the purposes of the calculation of that total yearly production, all OEMs under the control of the same natural or legal person shall be considered to be a single OEM.’;

(b) the third subparagraph is replaced by the following:

‘For engines of sub-categories of category NRE for which the date set out in Annex III for the placing on the market of Stage V engines is 1 January 2020, used in mobile cranes, the transition period and the 18-month period referred to in the first subparagraph shall be extended by 12 months.’;

(c) the following subparagraph is added:

‘For engines of all sub-categories for which the date set out in Annex III for the placing on the market of Stage V engines is 1 January 2019, except for the engines referred to in the fourth subparagraph, the transition period and the 18-month period referred to in the first subparagraph shall be extended by 12 months.’;

(2) in paragraph 7, the following point is added:

‘(d) 36 months from the applicable date for the placing on the market of engines set out in Annex III, in the case set out in the fifth subparagraph of paragraph 5.’.

Article 2

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

It shall apply from 1 July 2020.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament

For the Council

The President

The President