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#### **NOTE**

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From:	Presidency
To:	Permanent Representatives Committee/Council
No. prev. doc.:	14569/16 ENT 209 MI 731 CODEC 1687
No. Cion doc.:	5712/16 ENT 20 MI 45 CODEC 103
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) - Progress Report

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#### **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 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.
4. The Working Party on Technical Harmonisation (Motor Vehicles) has examined this proposal on 16 occasions during the Dutch, Slovak and Maltese Presidencies.
  5. 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.
  6. The European Economic and Social Committee issued its opinion on 25 May 2016.
  7. 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 voted its report on 9 February 2017.

## **II. MAIN CHANGES TO THE TEXT**

8. 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;
  - leaving it up to the Member States to decide on the means by which to finance any market surveillance activities they undertake;
  - turning a large number of delegated acts into implementing acts.

### III. OUTSTANDING ISSUES

9. Most Member States acknowledge the need to modify the current legal framework. After having reached an informal agreement on the technical provisions, the Council preparatory bodies have now been addressing the main political issues included in the Commission proposal.

In November 2016, Member States were consulted on a Commission questionnaire on type-approval and market surveillance, the replies to which have served to clarify the positions of Member States and to identify the areas of possible convergence among Member States.

10. Further clarification needs to be made on the following provisions:
- a) Compliance verification through the Commission

At this stage, a significant number of delegations continue to express serious doubts on the added-value of this provision and insist on a coordinating role for the Commission to exchange knowledge and know-how. Other delegations consider that the Commission should be given a role in the compliance verification so as to ensure the uniform application of the rules across the Member States.

Currently, the Presidency is exploring different ways of addressing the above and will present a new compromise proposal at one of the coming Working Party meetings.

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

The Commission proposal provides for the creation of a Forum for Exchange of Information on Enforcement. There is agreement that 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 information exchange platform and those who conceive it as an enforcement tool.

Discussions at Working Party level in January 2017 have brought clarity about the necessity to specify further the list of tasks to be carried out by the Forum, in particular with a view to avoiding diverging interpretations of the requirements among Member States.

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 is aiming at finding the right balance between those positions, while avoiding at the same time to create excessive administrative burden.

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)

The Presidency is currently exploring the possibility of having an active role of the national accreditation bodies in the monitoring and the assessment of the technical services.

#### IV. CONCLUSION

11. The Presidency conducted another round of examination of the Articles. It is currently undertaking further redrafting in order to address the outstanding issues. It is the Presidency's intention to present shortly a revised compromise proposal to the Council Working Party with a view to reaching an agreement on the remaining outstanding issues. Consequently, the Presidency will ask for the Council's endorsement of a general approach at one of its upcoming meetings.
12. The Council is, therefore, invited to take note of the above report on the progress made in the examination of the proposal on type-approval and market surveillance of motor vehicles.

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