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WORKING PAPER

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From:	SE delegation
To:	Working Party on Technical Harmonisation (Motor vehicles)
Subject:	Comments from Sweden regarding article 10 of the proposed 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

Article 10 as proposed in 14713/16	
<p style="text-align: center;"><i>Article 10</i> <i>Forum for Exchange of Information on Enforcement</i></p>	
<p>1. The Commission shall establish and chair a Forum for Exchange of Information on Enforcement ('the Forum').</p> <p>This Forum shall be composed of members appointed by the Member States.</p> <p><i>(a recital should be added to clarify that the Forum members should in principle represent the national authorities responsible for the type-approval and market surveillance authorities).</i></p>	
<p>2. The Forum shall coordinate a network of advise the national authorities responsible for the type approval and market surveillance.</p> <p>It's The advisory tasks of the Forum shall comprise inter alia the promotion of good practices, the exchange of information on enforcement problems, cooperation, development of working methods and tools, development of an electronic information exchange procedure, evaluation of harmonised enforcement projects, penalties and joint inspections.</p>	<p>2. The Forum shall coordinate a network of advise the national authorities responsible for the type approval and market surveillance.</p> <p>It's The advisory tasks of the Forum shall comprise inter alia the promotion of good practices a harmonised implementation, the exchange of information on enforcement problems, cooperation, development of working methods and tools, [development of an electronic information exchange procedure], evaluation of harmonised enforcement projects, penalties and joint coordination of inspections.</p>
<p>Justification:</p> <p>The suggestions aim to clarify the aim of the Forum, focusing on achieving harmonised implementation. More concisely that the focus should be on the actual implementation of the regulation. The task of developing an electronic information exchange system is placed within square brackets since we would like to see a comprehensive approach to this with one solution for the electronic system throughout the proposal, i.e. one system for all information related tasks. For "coordination" see justification for 2a(e).</p>	

<p>2a. The Forum shall discuss consider in particular:</p> <p>(a) the results of the periodic reviews of the type-approval and surveillance activities carried out by Member States in accordance with Article 6(6) and (7);</p> <p>(b) the reports submitted under Article 71(7) by Member States on their procedures for the assessment, designation and notification of technical services and for the monitoring of technical services;</p> <p>(c) the questions of general relevance with regard to the implementation of the requirements set out in this Regulation in relation with the assessment, designation and monitoring of technical services in accordance with Article 82(4);</p> <p>(d) the sanctions imposed by Member States in accordance with Article 89(5);</p> <p>(e) the planning and results of market surveillance activities ;</p> <p>(f) the results of tests and inspections carried out by the Commission in accordance with Article 9.</p>	<p>2a. The Forum shall discuss consider in particular:</p> <p>(a) the results of the periodic reviews of the type-approval and surveillance activities assessments carried out by Member States in accordance with Article 6(6) and (7);</p> <p>(b) the reports submitted under Article 71(7) by Member States on their procedures for the assessment, designation and notification of technical services and for the monitoring of technical services;</p> <p>(c) the questions of general relevance with regard to the implementation of the requirements set out in this Regulation in relation with the assessment, designation and monitoring of technical services in accordance with Article 82(4);</p> <p>(d) the sanctions penalties imposed by Member States in accordance with Article 89(5);</p> <p>(e) the planning coordination and results of market surveillance activities ;</p> <p>(f) the results of tests and inspections carried out by the Commission in accordance with Article 9.];</p> <p>(g) Conformity of Production;</p>
<p>Justification: We are in favour of a simplified version of the article that give a general direction on what the Forum should do and that COM would get a mandate to set out the details in an implementing act. Since there seemed to be a majority of MS that preferred a more detailed approach, our proposal still includes</p>	

a list of prioritised tasks.

(a) General simplification of the text. There is no need to repeat the content of the articles referred to. We believe that the assessment in the article is more interesting to report than the review itself. It is in the assessment where the analysis is made.

(b) General simplification of the text. There is no need to repeat the content of the articles referred to.

(c) Deletion of the reference to the provisions regarding technical services. The Forum has great potential to deal with various issues arising from the type-approval system. Based on this the Forum may deal with all issues, not just one which seem to be in focus at the moment.

(d) A more general text. This can include the consideration of penalties imposed based on other regulatory acts, 715/2007 as an example.

(e) Clarification on the coordinating role of the Forum. Coordination of market surveillance activities should be a corner stone of the Forum.

(f) In square brackets pending general approach.

(g) Introducing consideration of CoP as a fundamental part of the type-approval system and proposed by NL.

2b. Based on the outcomes of the discussions according to paragraph 2a, the Forum shall recommend a plan for a review of type approval authorities and communicate it to the Commission. The recommendation shall include a suggestion for a schedule of the review and for the composition of the personnel reviewing the type approval authority. Notwithstanding the above, it shall be ensured that all type approval authorities are reviewed at least once every [5] years.

Taking into account the outcome of the considerations in accordance with paragraph 2a, the Forum may recommend a procedure for a peer-review of type-approval authorities covering in particular the following

2b. Based on the outcomes of the discussions according to paragraph 2a, the Forum shall recommend a plan for a review of type approval authorities and communicate it to the Commission. The recommendation shall include a suggestion for a schedule of the review and for the composition of the personnel reviewing the type approval authority. Notwithstanding the above, it shall be ensured that all type approval authorities are reviewed at least once every [5] years.

Taking into account the outcome of the considerations in accordance with paragraph 2a, the Forum may issue recommendations, a procedure for a peer-review of type-approval authorities covering in particular for

<p><u>elements:</u></p> <p><u>(a) the designation of technical services;</u></p> <p><u>(b) the rules for assigning the staff reviewing the type-approval authorities for each peer-review;</u></p> <p><u>(c) the schedule and the periodicity of the peer-review.</u></p> <p><u>The Commission may decide on its participation on the basis of a risk assessment analysis.</u></p>	<p><u>the following elements:</u></p> <p><u>(a) to initiate the procedure in article 81 when the considerations concern the designation-compliance of technical services;</u></p> <p><u>(b) the rules for assigning the staff reviewing the type-approval authorities for each peer-review the adaptation of EU-regulatory acts, or specific translations thereof, if the implementation contradicts the intentions of this regulation.</u></p> <p><u>Where the recommendation relates to a UNECE regulation the adaptation shall be proposed according to the procedure applicable under the Revised 1958 Agreement.</u></p> <p><u>(c) the schedule and the periodicity of the peer-reviewconformity of Production procedures.</u></p> <p><u>[(d).../not exhaustive/...]</u></p> <p><u>The Commission may decide on its participation on the basis of a risk assessment analysis.</u></p>
<p>Justification:</p> <p>We propose to delete all earlier texts regarding the peer-review procedure, both in article 10 and in article 71. The peer review as originally proposed is looked upon as very burdensome, by many MS. Our proposal is not periodic and would not burden the stakeholders in the manner as originally proposed by COM. The proposal is based on a procedure that can be initiated as a reaction on information</p>	

or indications of non-compliances.

2 b (a): As an attempt to make progress regarding the peer-review procedure for technical services, this proposal is based on the idea of introducing a procedure of “peer-review” only when there is “smoke”. It is utilising the provisions of article 81 where COM may investigate non-compliances regarding technical services. This way the Forum may issue a recommendation based on considerations to initiate this procedure. This is a complement to article 81 where the Forum may recommend such a procedure. Instead of continuously scrutinising technical services this review is initiated where there is information or incidents which points towards non-compliances.

2 b (b) Clarification of the role and aim of the Forum to ensure the harmonised application on requirements in the regulation based on unclarities in the regulatory acts.

2 b (c) The Forum should be able to make recommendations on CoP procedures. There is a need to establish at least a minimum level of TAA-intervention based on Annex X, paragraph 4.1 to 4.1.1.2.

2 b (d) (Yet to be discussed): Should the Forum have the possibility to issue recommendations on type-approvals issued contrary to regulations? If so, how should this be handled in the regulation?

2c. Following a recommendation from the Forum in accordance with paragraph 2b, the Commission may adopt implementing acts setting out a plan for the peer-reviews for all type-approval authorities of Member States covering a period of up to 5 years. This plan may lay down criteria concerning the composition of the peer-reviewing team, the methodology used for the review and other tasks related to the review. The review shall include an on-site visit to a technical service under the responsibility of the reviewed authority. The Commission may participate in the review and decide on its participation on the basis of a risk assessment analysis. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

2c. Following a recommendation from the Forum in accordance with paragraph 2b(a), the Commission shall appoint a team that includes representatives of the designating type-approval authority and at least one other type-approval authority for the purpose of the investigation. may adopt implementing acts setting out a plan for the peer-reviews for all type-approval authorities of Member States covering a period of up to 5 years. This plan may lay down criteria concerning the composition of the peer-reviewing team, the methodology used for the review and other tasks related to the review. The review shall include an on-site visit to a technical service under the responsibility of the reviewed authority. The Commission may participate in the review and decide on its participation on the basis of a risk assessment analysis. Those implementing acts shall be adopted in

	<p><u>accordance with the examination procedure referred to in Article 87(2).</u></p> <p>[.../not exhaustive/...]</p>
<p>Justification:</p> <p>The investigation team is proposed to consist of COM, designating TAA and one TAA from another MS.</p> <p>We foresee additional criteria for Forum recommendations but focus on the peer-review at this stage.</p>	
<p>2d. The outcome of the peer-reviews shall be communicated to all Member States and to by the Commission and a summary of the outcome shall be made publicly available. It shall be discussed examined by the Forum. Where the Forum issues recommendations in accordance with paragraph 2b, the Member State concerned shall report in accordance with Article 6(6) on how it has addressed the recommendations.</p>	<p><u>2d. The outcome of the peer-reviews investigation shall be communicated to all Member States and to by the Commission and a summary of the outcome shall be made publicly available. It shall be discussed examined by the Forum. Where the Forum issues recommendations in accordance with paragraph 2b, the Member State concerned shall report in accordance with Article 6(6) on how it has addressed the recommendations.</u></p>
<p>Justification:</p> <p>Introduce as a second subparagraph to 2c instead.</p>	
<p>3. The Commission shall be empowered to may adopt delegated implementing acts in accordance with Article 88 to lay down the composition, appointment process, detailed tasks, working methods and rules of procedure of the Forum by [PO: please insert the date [12] months after entry into force of this Regulation.]. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).</p>	<p>3. The Commission shall be empowered to may adopt delegated implementing acts in accordance with Article 88 to lay down the <u>composition, appointment process,</u> detailed tasks, working methods and rules of procedure of the Forum by [PO: please insert the date [12] months after entry into force of this Regulation.]. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).</p>
<p>Justification:</p>	

As the art 10(1) above is proposed to include a recital on the appointment of representatives for MS there is no need to set out provisions for composition or appointment criteria. This is handled by Member States.

4. In accordance with Article 9(5) the Forum is informed by the Commission where tests and inspections required to be carried out by the Commission put into question the correctness of the type approval itself.