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STATEMENT OF THE COUNCIL'S REASONS

Subject : Common Position adopted by the Council on 11 December 2006 with a view to adopting a Directive of the European Parliament and of the Council establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles ("Framework Directive")

STATEMENT OF THE COUNCIL'S REASONS

I. INTRODUCTION

1. On 14 July 2003, the Commission forwarded to the Council and to the European Parliament a proposal¹ for a Directive of the European Parliament and of the Council on the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles.
2. The European Parliament's opinion at first reading was adopted on 11 February 2004².
3. The Economic and Social Committee adopted its opinion on 28 January 2004³.
4. On 29 October 2004, the Commission adopted its amended proposal⁴. The amended proposal accepted partially or in principle Amendments 3, 6 to 10, 12, 21, 22 and rejected Amendments 1, 2, 4, 5, 11, 13 to 19 and 23 to 34. The proposal introduced as well regulations as alternatives to separate Directives and clarification of Member States obligations with regard to the free movement of approved vehicles, components and separate technical units. Finally, it proposes the inclusion of UNECE Regulations in replacement of EC directives within the EC vehicle type-approval system, amendments to the safeguard clauses, to the implementation measures, the enlargement of the Community to the new Member States and criteria for technical services and bodies operating quality system certification.

¹ Doc. 11641/03 ENT 128 CODEC 1022

² Doc. 6115/04 ENT 35 CODEC 180

³ CESE 90/2004 + CESE 1495/2003 fin corr.- Published in O.J. C 108 of 30.04.2004.

⁴ Doc. 14469/04 ENT 145 CODEC 126

5. On 7 December 2005, the Committee of Permanent Representatives (1) reached, unanimously, a political agreement⁵, on a compromise text with a view to adopting its common position.
6. The Council adopted its common position⁶ in accordance with Article 251 of the EC Treaty on 11 December 2006.

II. OBJECTIVES

This proposal constitutes the second and last stage of the recasting of the framework Directive 70/156/EEC⁷ of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers. The first stage of the recasting, which consisted of the codification of the technical annexes, was achieved by the adoption of Commission Directive 2001/116/EC of 20 December 2001⁸. The second stage consists of the recasting of the enacting part of the Directive.

⁵ Doc. 15137/05 ENT 149 CODEC 1114 OC 900

⁶ Doc. 9911/06 ENT 84 CODEC 561 OC 423

⁷ O.J. L 42 of 23.02.1970.

⁸ O.J. L 18 of 21.01.2002

III. COMMON POSITION

The common position adopted by the Council reflects partially the opinion of the European Parliament at first reading. Ten of Parliament's amendments out of thirty-four were already incorporated, totally, partly or in principle, in the Commission's amended proposal. Nearly all of them have been incorporated in the common position.

The common position also contains a number of new provisions, which the Council considers to be essential in ensuring an efficient implementation of the Directive and contributing to the proper functioning of the internal market.

All modifications to the Commission's amended proposal introduced by the Council in its common position have been accepted by the Commission.

In general:

- the title of the Directive has been modified;
- there are five new recitals: (12) to (15) and (22);
- two recitals have been modified: (10) and (19);
- there are seven new Articles: 11, 31, 34, 41 to 43 and 46;
- seventeen Article have been modified: 1 to 4, 12, 18, 20, 23, 24, 28, 29, 32, 35, 38, 39, 47 and 48;
- there are three new Annexes: XIII, XV and XVI;
- three Annexes have been modified: V, XII and XX.

Analysis of the Common Position as set out in doc. 9911/06.

New elements contained in the Common Position as compared with the Commission proposal:

Title.

The "Framework" character of the Directive is highlighted.

Recitals.

Recital (10) was completed to precise the procedure in case of adoption of UNECE Regulations to Community law.

Recitals (12), (13) and (14) are new. They concern the control of certain parts and equipments that can be fitted to vehicles before their placing on the market.

(15) is new. It concerns the effective protective measures to be taken by the manufacturer in case of health and safety risks for the consumer.

(19) explains the procedure dealing with urgent cases.

(22) is new. It encourages the member States to draw up their own correlation tables.

Chapter I: General Provisions (Art. 1 to 3).

Art. 1 : Subject matter.

The "Framework" character of the Directive is highlighted and it is added that this Directive also establishes provisions for the sale and entry into service of parts and equipment intended for vehicle approved in accordance with the Directive.

Art. 2 : Scope.

Extension of the Directive to parts and equipment intended for vehicles covered by the Directive.

Optional type-approval for mobile machineries, vehicles used by armed services, civil defence, fire services, police and on construction sites, quarries, port, airports.

Art. 3: Definitions.

New definitions: "regulatory act", "separate directive or regulation", "hybrid electric vehicle", "original parts or equipment", "competent authority", "virtual testing method".

Modification of the definitions of "hybrid motor vehicle", "system", "component", "separate technical unit", "manufacturer", "approval authority", "technical service", "certificate of conformity".

Chapter II: General obligations (Art. 4 and 5).

Art. 4 : Obligations of Member States.

Par. 3 explains the limits of prohibitions, restrictions or impediments. while par. 4 specifies the content of the notification act.

Chapter IV: Conduct of the EC type-approval procedures (Art. 8 to 12).

New **Art. 11** (" Tests required for EC type-approval") introducing general dispositions concerning those tests.

Art. 12: Conformity of production arrangements.

New par. 3 to ensure that the conformity of production procedure is followed correctly.

Chapter VII: Certificate of conformity and markings (Art. 18 and 19).

Art. 18: Certificate of conformity.

Possibility for a Member State of translation into its own national language of the certificate and for a manufacturer to transmit information by electronic means to the registration authority.

Chapter VIII: New technologies or concepts incompatible with separate directives

(Art. 20 and 21).

Art. 20: Exemptions for new technologies or new concepts.

Vehicles manufactured in conformity with a provisional approval accepted by one or a few Member States before it was revoked by a decision of the Commission will be permitted to be registered, sold or enter service in those Member States that accepted the approval.

Chapter IX: Vehicles produced in small series (Art. 22 and 23).

Art. 23: National type-approval of small series.

Redrafting of par. 1 in order to make more pragmatic for small constructors the application of dispositions concerning small national series. Possibility for Member States to fix practical rules to ease mutual recognition.

Chapter X: Individual approvals (Art. 24 and 25).

Art. 24: General provisions.

Same modifications as in Art. 23.

No necessity to carry destructive tests.

No possibility to decentralise the individual approvals.

Possibility to use the individual approval procedure for vehicles modified by their owner before the first registration took place.

Chapter XI: Registration, sale and entry into service (Art. 26 to 28).

Art. 28: Sale and entry into service of components and separate technical units

Better distinction of the cases when the sale of certain non-approved components is allowed or prohibited.

New par. 4 to clarify that if components are to be fitted on vehicles exempted of the Directive, they do not have to respect the technical dispositions of the relevant particular directives.

Chapter XII: Safeguard clauses (Art. 29 to 33).

Art. 29: Vehicles, systems, components or separate technical units in compliance with this Directive.

Clarification of the measures to be taken by the Commission in case of shortcomings in the relevant regulatory acts or incorrect application of the relevant requirements.

New **Art. 31 ("Parts and equipment which pose a significant risk to the correct functioning of essential systems")** putting into place an authorization procedure similar to the type-approval one, in order to control the sale of items which could pose a significant risk for the safety of the vehicle or damage the environment.

Art. 32: Recall of vehicles.

Better proportionality of the sanctions against a manufacturer obliged to operate a recall of vehicles.

New par. 4 allowing the "recall" procedure for parts that are not subject to any requirement under a regulatory act.

Chapter XIII: International regulations (Art. 34 to 36).

New **Art. 34** ("UNECE Regulations required for EC type-approval") stating the procedure to respect.

Art. 35: Equivalence of UNECE Regulations with Directives or Regulations.

Clarification of the procedure.

Chapter XIV: Provision of technical information (Art. 37 and 38).

Art. 38: Information intended for manufacturers of components or separate technical units.

In link with Art. 31, obligation for the manufacturer or his suppliers to communicate precise information on the functioning of certain security devices.

Chapter XV: Implementation measures and amendments (Art. 39 and 40).

Art. 39: Implementation measures and amendments to this Directive and the separate directives and regulations.

Clarification on how to proceed to lay down technical provisions concerning small series that are not cars and individual approval: harmonised dispositions could be taken by the Commission after opinion of the technical Committee of Art. 40.

Chapter XVI: Designation and notification of technical services (Art. 41 to 43).

This chapter replaces the previous Art. 38: Notification of approval authorities, technical services and bodies. It creates three new Articles:

Art. 41: Designation of technical services: 4 categories are created as well as the possibility for an approval authority or a manufacturer to act as a technical service in certain cases.

Art. 42: Assessment of the skills of the technical services: description of the procedure.

Art. 43: Procedures for notification: description of the procedure.

Chapter XVII: Final provisions (Art. 44 to 51).

New **Art. 46 ("Sanctions")**: Member States shall determine the sanctions applicable for infringement, shall take all necessary measures for their implementation and notify these provisions to the Commission within 18 months after the entry into force of the Directive.

Art. 47: Assessment.

The Commission shall report to the European Parliament and the Council on the application of this Directive within 48 months after the entry into force of this Directive.

Art. 48: Transposition.

Change the transposition deadline to 18 months from 12 months.

Annexes

Annex V: Procedures to be followed during type-approval.

Two new Appendix have been added, in link with the new Art. 41 to 43:

- Appendix 1: Standards with which the entities referred to in Art. 41 have to comply.
- Appendix 2: Procedure for the assessment of the technical services.

Annex XII: Small series and end-of-series limits.

Modification of the maximum number of units of one type of vehicles of categories M1 to be registered, sold or put on the market per year.

For national type-approval of small series, the quantities will be determined by the member States, but shall not exceed the number in question, set for each category.

New Annex XIII ("List of parts or equipment which can pose a significant risk to the correct functioning of systems that are essential for the safety of the vehicle or its environmental performance requirements, appropriate test procedures, marking and packaging provisions").

This Annex is related to the new Art. 31.

New Annex XV: ("List of the regulatory acts for which a manufacturer may be designated as technical service").

This Annex is in related to Art. 41.

New Annex XVI: ("List of regulatory acts for which virtual testing methods may be used by a manufacturer or a technical service").

This Annex is related to Art. 11.

It contains two new Appendices to be completed at a later stage:

- Appendix 1: General conditions required from virtual testing methods.
- Appendix 2: Specific conditions concerning virtual testing methods.

Annex XX: Timetable for the enforcement of this Directive in respect of type-approval.

The timetable has been totally reviewed, mainly to give more time to small and medium enterprises to adapt to the new rules.

IV. CONCLUSION

The Council considers that its common position, which is the result of extensive preparatory work and negotiations since 2003 and which is fully supported by the Commission, is well in line with the objectives of the proposed Directive.

Indeed, the common position will make the administrative provisions and regulations in force clearer for all partners in order to make Community type-approval operational for the various categories of vehicles and their components. The replacement of EC directives or regulations by UNECE Regulations, the introduction of self - or virtual testing will contribute to the simplification of Community legislation, aiming to enhance the automotive industry's global competitiveness.

It will also establish provisions for the sale and entry into service of parts and equipment intended for vehicles approved in accordance with the above provisions and regulations . It will thus contribute measurably to the completion of the internal market in a dynamic growing sector.

Finally, it will contribute significantly to the improvement of road safety by making compulsory the EC type-approval system for all commercial vehicles including trailers within a relatively short period of time.