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Accompanying document to the

**Proposal for a
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
concerning Type-approval requirements for agricultural vehicles**

Executive summary of the Impact Assessment

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EXECUTIVE SUMMARY

Over the last 35 years a type-approval system for agricultural vehicles has been developed from a basic document for harmonisation (Directive 74/150/EEC) to a system securing proper limits for road safety and environment protection. Now it needs modernising, rationalisation, simplification and completion.

1. PROBLEM DEFINITION

The Commission has identified three key problems associated with the current provisions for the type-approval of agricultural vehicles:

1.1. Lack of Legal and Regulatory clarity and burdensome management

The existing system for agricultural vehicles is considered to be too complex and that there is therefore scope for simplification and international harmonisation. It is understood that in principle this proposal does not suggest increasing the stringency of existing technical requirements.

Type-approval of agricultural vehicles has substantially evolved over the past thirty-five years: its nature has moved from being a system, based on existing national requirements and designed to allow free trade between Member States to a system based on compulsory whole-vehicle type-approval (WVTA) for most categories of vehicle, aiming to provide a high level of protection for health, safety and environment.

In addition to this, many directives contain references to international regulations and standards, such as those from the UNECE, which are subject to amendments. Ultimately, the disparate nature of regulations relating to type-approval of agricultural vehicles leads to a lack of legal and regulatory clarity. Industry and regulators must be familiar with some 60 directives, and ensure that they are aware of and apply any amendments to international standards. This can be a burdensome process and results in additional costs for administrations and industry. This situation is particularly a problem for SMEs which operate on this market.

As a general framework, the type-approval system is recognised as an effective approach to tackle various aspects (road and occupational safety, environment). Many stakeholders have called upon the Commission to simplify the regulatory framework in order to obtain a less burdensome and less time consuming approach to type-approval.

1.2. Resource-intensive transposition without adding value

The Framework Directive and its separate Directives provide for the technical requirements to be complied with when granting EC type-approval. The enacting terms of the directives and their annexes are highly detailed and leave practically no room for discretion of Member States when transposing them. Thus, some Member States simply make direct reference to those Directives, but others develop a completely new legislative text that is meant to correctly transpose those requirements.

Transpositions are then using resources in national administrations without adding any value in terms of safety or environment protection.

1.3. Functioning of the internal market

Requirements under the Framework Directive are mandatory since 1 July 2005 for all new types of tractor in categories T1, T2 and T3, and will be mandatory for all new tractors in these categories from 1 July 2009 onwards. For the remaining categories of vehicles (T4, T5, C, R and S) EC whole vehicle type-approval is not yet mandatory. For certain categories, it is optional, i.e. up to the choice of the manufacturers. For others, not all special requirements have been harmonised at EU-level yet, thus, EC whole vehicle type-approval is not yet available.

A further consideration to be taken into account when choosing between different alternatives is whether completion would be too costly for SMEs such as trailer manufacturers and end-users if it would be on a *mandatory* basis. One alternative could be to complete the set of requirements but leave whole vehicle type-approval *optional* (at the manufacturer's choice) for those categories, thus allowing full EC whole vehicle type-approval (or component type-approval) for those -larger- industries that can benefit. A drawback may be that Member States may need to maintain a set of national rules and requirements, in parallel to the EC Regulation now being proposed. It should also be considered whether mandatory EC whole vehicle type-approval is desirable for reasons of safety or environmental protection (the more so, since exhaust gas requirements are already mandatory for all tractors).

2. ANALYSIS OF SUBSIDIARITY

Prior to the establishment of an EU type-approval for agricultural vehicles, regulations were established at Member State level. The regulations set by Member States often differed and manufacturers selling on several markets were then obliged to vary their production according to the Member States for which their products were intended and had their vehicles tested in every Member State, which was time consuming and costly. Different national rules consequently hindered trade (different design, production, distribution, after-sales in every country), and had a negative effect on the establishment and functioning of the internal market.

It was, therefore, necessary to establish standards at the EU level for certain areas (for example, road safety, occupational safety, and environment protection). The Framework Directive 2003/37/EC, based on Article 95 of the EC Treaty, was designed to do this and aims at establishing an internal market while ensuring a high level of protection concerning health, safety and environment. Such a rationale is still valid today as Community action is necessary to avoid fragmentation of the internal market and to ensure a high and equal level of protection across Europe. Any change to this regulatory framework will be assessed in its compliance with the principle of subsidiarity as established in Article 5 of the EC Treaty.

3. OBJECTIVES OF EU INITIATIVE

3.1. Overall objective

The exercise of simplification replies to the commitment of the Commission to act in accordance with the principles of Better Regulation. Simplifying the regulatory framework of the type-approval of vehicles is furthermore in line with the recommendations of CARS 21¹, which gathered expectations of various stakeholders. Applying now this process to agricultural vehicles aims at addressing the problems identified by the Commission on the basis of the stakeholder consultation. The simplification exercise has thus as general objectives the reduction of the legal unclarity, the deletion of resource-intensive transpositions, and a move towards a better coverage of these agricultural vehicles by the EU type-approval system.

3.2. Objective 1: Simplification of existing acquis (by repeal of existing directives).

The current regulatory architecture is very fragmented, using a Framework Directive, 23 detailed technical Directives, 36 amending directives and a whole corresponding set of transpositions into national legislations. The simplification exercise aims at addressing this complexity and assessing which regulatory approach could allow less time-consuming and less burdensome adaptations to technical progress. A more clear, structured and coherent legislation would also be in line with the Better Regulation commitment, which is an important objective for the Commission.

3.3. Objective 2: Improved regulatory capacity for future acquis (by new split-level regulatory approach with use of references to international standards)

Another part of the simplification exercise is the elimination of technical details in EC Directives by replacing them by references to standards set by other international organisations such as the UNECE, OECD, CEN/CENELEC and ISO, which are widely accepted inside and outside the EU. A condition is that such standards must be equivalent to the protection level provided by the present Directives.

3.4. Objective 3: Completion of the single market

The EC whole vehicle type-approval system under the Framework Directive, even though in principle foreseen, is not mandatory for categories T4, T5, C, R and S, but according to the text of the Directive manufacturers can voluntarily apply for EC (whole vehicle) type-approval for vehicles of these categories. However, technical requirements for these categories have not been established yet for many of the aspects and the option to obtain an EC whole-vehicle type-approval remains therefore theoretical, despite what is provided in the Directive: vehicles of these categories can only obtain a whole vehicle type-approval under national legislation. It follows that in order to obtain access to the different national markets, the same vehicle may need a whole-vehicle type-approval from several Member States. The simplification exercise is an opportunity to complete the EU regulatory framework for these categories of vehicles, so that they can benefit from a single EU system which gives access to the whole European market.

¹ Competitive Automotive Regulatory System for the 21st century
<http://ec.europa.eu/enterprise/automotive/pagesbackground/competitiveness/cars21.htm>

4. POLICY OPTIONS

For these objectives the following options were evaluated:

4.1. Simplification I: Simplification of existing acquis (by repeal of existing directives)

a) Option 1: No policy change

No change would be made to the current regulatory framework: the Framework Directive would still define the EC type-approval system, while technical requirements would still be established under separate Directives, which require transposition into national legislations. Amending directives would also require transposition through national acts.

b) Option 2: Replace the current framework by two regulations

The present Directives would be repealed. A new Mother Regulation adopted by co-decision would contain the fundamental requirements of the EC type-approval system, while all detailed technical requirements would be gathered into a single implementing regulation, to be adopted and more easily updated in the future through the comitology procedure.

c) Option 3: Replace the current framework by a limited number of thematic regulations

Same as option 2, but the detailed technical requirements would be gathered into for example three thematic implementing regulations adopted by comitology procedure. Requirements could be grouped by coherent blocks under environmental aspects, road safety aspects, and occupational safety aspects².

While the difference between Option 2 and Option 3 is rather small, the difference from Option 1 is major. By moving from directives to the legislative instrument of regulations, options 2 and 3 would do away with the need for transposition on the side of Member States and the need for transposition control on the side of the Commission, and all discrepancies between national transposition acts would be avoided. With the introduction of the split-level approach, the co-legislator could concentrate on issues which must be decided by Council and Parliament, while delegating technical and administrative details to the Commission without losing control (the regulatory procedure with scrutiny would be the applicable comitology procedure, which ensures final control by the co-legislator also for comitology acts).

4.2. Simplification II: Improved regulatory capacity for future acquis (by new split-level regulatory approach with use of references to international standards)

a) Option 1: No policy change

No change would be made to the current framework, requirements and test procedures having to be followed as required under the 24 separate Directives.

b) Option 2: Use when possible references to UNECE Regulations

Similar to what has been introduced for motor vehicles in the General Safety Regulation (GSR), where equivalent technical standards have been defined by UNECE, the provisions of EC Directives should be repealed and replaced by a reference to these international standards. This option could take different forms which have to be assessed:

- Full references, where the text is fully copied and published by EU
- Simple fixed (static) references, where the EC legislation links to a dated international regulation
- General (dynamic) references, where the EC legislation links to a regulation of an international standardisation body, but without dating it (open to update).
- From a point of view of legal certainty and control over EU legislation the latter possibility (dynamic reference) seems unacceptable; it was not further analysed.

c) Option 3: Use references to all relevant international standards

Similar to option b), but now reference to OECD, CEN/CENELEC and ISO can be applied. OECD has introduced so called Codes for Roll-over Protection Systems, which are not available from UNECE; for other issues only standards from CEN/CENELEC or ISO exist. .

² At this stage, the exact number of implementation Regulations has not been fixed yet.

4.3. Completion of the single market

a) Option 1: No policy change

No change would be made to the scope of the Framework Directive, the EC whole vehicle type-approval remaining optional, but de facto not available for categories T4, T5, C, R and S. Without any adaptation to technical requirements, the different national type-approval requirements will have to be complied with in order to obtain national type-approvals and have market access in different Member States of the EU.

b) Option 2: **Complete** the EC type-approval requirements and make EC type-approval **mandatory** for all categories of vehicles

The EC type-approval legislation will be completed for the categories not (fully) covered today. The missing technical compliance requirements for certain elements would be filled in. EC whole vehicle type-approval would be made **mandatory** for all categories presently covered by the Framework Directive, which means that vehicles from categories T4, T5, C, R and S would no longer have to pass national type-approval procedures: they should only fulfil requirements of EC type-approval and then gain access to all markets.

c) Option 3: **Complete** the EC type-approval requirements and leave EC whole vehicle type-approval **optional for certain categories** (T4, T5, C, R and/or S)

As with option 2, the EC legislation would be completed, but the EC whole vehicle type-approval would remain optional for those categories. This would allow a manufacturer the choice between a national approval per Member State or an EU whole vehicle type-approval, the latter at probably higher costs but with the benefit of direct accessibility of the whole internal market. The manufacturer would have an incentive to choose the profit maximising solution.

An alternative would be, as suggested by many stakeholders, to make certain requirements mandatory within this option. Some subjects mentioned are: braking, lighting and markings. This would harmonise those aspects within Europe and bring important road safety aspects at a certain acceptable minimum level. For all tractors this already is the case for exhaust gas emissions requirements.

5. ANALYSIS OF IMPACTS

5.1. Simplification I: Simplification of existing acquis (by repeal of existing directives)

The proposal to change to Regulations is brought about by Parliament and stakeholders; several have expressed criticisms on the useless complexity of the format of the current legislative framework, and asked the Commission to take measures to tackle this situation.

The type-approval system receives full support, but needs updating.

Changing from Directives to regulations in split-level approach is shown to be clearly cost-effective, after 3 to 4 years because of investment costs for the change.

The simplification exercise is welcomed by the stakeholders, even though some insisted that there are other issues on the agenda that should have priority (e.g. exclusion of tractors from the Machinery Directive).

The choice between two and more Regulations is not evident on the basis of cost/benefit considerations, but should be made on practical grounds.

5.2. Simplification II: Improved regulatory capacity for future acquis (by new split-level regulatory approach with use of references to international standards)

A move to use “worldwide” recognised standards, also applied in the General Safety Regulation for motor vehicles, widely supported by stakeholders as expressed in replies to the public consultation, is a benefit to industry as their approved products can be marketed as widely as possible.

The main positive point is that the legislation will be simplified by suppressing useless duplications. This will benefit to all actors dealing with this legislation, being national authorities responsible for type-approval, or manufacturers whose vehicle types have to comply with these requirements. It will in particular benefit the SMEs which have limited resources to be attributed to regulatory affairs.

In relation with translations the study shows that large benefits should not be expected as legal security requires that such documents need to be available in all official community languages. UNECE and OECD produce only French and English versions, so the EC must take care of the others (a reduction of 1 language compared with the present situation where one original version needs to be translated in all other languages).

Some cost reduction can be obtained by a limited reduction in participation in international meetings.

A reduction in costs of type-approval seems possible, but limited. Today some components (like headlamps) have more than one approval (set of documents and marking) which brings about some additional costs. At the same time such a limitation in international legislation by suppressing useless duplications is also an advantage for national authorities which have to apply them.

In all cases of reference to international standards the Regulation should provide that the EU can act independently to introduce differing amendments if necessary.

A special case is the existing Directive on exhaust gas requirements for tractors. As the technical content is already aligned with Directive 97/68/EC for Non-Road Mobile Machinery, it is considered to be a simplification to repeal the tractors Directive and fully refer to 97/68/EC, without affecting the technical content.

In conclusion the evaluation is slightly in favour of this reference to international standards.

5.3. Completion of the single market

The present incomplete status of Directives means that additional national legislation is necessary. Completing the EC system and making it mandatory could change this and bring long-term advantages. Completion as such is seen as beneficial, but it is shown that making it mandatory would bring serious and undesirable costs for industry, especially for the many SMEs. This may vary with vehicle categories, depending on the facilities for "small-series type-approval". Such arrangement, already available in the present Framework Directive, allows manufacturers and national authorities to use easier and cheaper approval procedures, while the vehicle is supposed to attain the same level of protection.

When the system would remain optional for certain categories the level of protection provided in a certain market might be lower than in others. At the same time Member States will have to maintain national legislation. For manufacturers it will be the cheapest solution, if they sell only in limited numbers of countries. This would be important for SMEs, especially in the sector of trailers and towed machinery.

6. OPTIONS COMPARISON AND CONCLUSIONS

Summary of impacts of different options for all objectives

Summary of impacts of different options for an objectives										
Objective	Policy options	Criteria						Conclusion ³		
		effectiveness		efficiency		coherence				
1 - Simplification of existing acquis (by repeal of existing directives)	1 - No policy change	0		0		~		0		
	2 - Replace current framework by two regulations	simplification of the regulatory framework	+	initial cost		-		better than baseline	+	.
				slight risk of delaying urgent matters		-				
				cost reduction on the long term		+				
				a quick process of adaptation to technical evolution in the future		+				
	3 - Replace the current framework by limited number of thematic regulations	simplification of the regulatory framework	+	initial cost		-		even more positive (increased clarity for industry)	+	.
				slight risk of delaying urgent matters		-				
				easier processing		+		facilitation and rationalisation effects: more coherence for experts	+	
				cost reduction on the long term		+				
				implementing measures will be adopted in a short term		+				

³ Explanation: 0 means 'neutral' (no change)
+ means 'better'

Objective	Policy options	Criteria						Con- clusion	
		effectiveness		efficiency		coherence			
2 – Simplification: Improved regulatory capacity for future acquis (new split-level regulatory approach with use of international standards)	1- No policy change	0		0		0		0	
	2- Use references to UNECE Regulations	simplification	+	slight reduction of costs and administrative burden		+	increase clarity for industry and administrations	+	.
		reduction of duplications	+	improved management of procedures		+			
				UNECE texts also need to be translated and published, like EC legislation		0			
				potential risk of weakening requirements		–			
	3- Use references to all relevant international standards	simplification	++	OECD texts also need to be translated and published, like EC legislation and UNECE		0	same as in 2.2		
		reduction of duplications	++	reduction of costs and administrative burden		+			
				improved management of procedures		+			
				potential risk of weakening requirements		-			

Objective	Policy options	Criteria				Con- clusion
		effectiveness	efficiency		coherence	
3 - Completion of the single market	1- No policy change	0	0		0	0
	2- Complete the EC TA requirements and make EC type-approval mandatory for all categories of vehicles	completion of internal market (mandatory)	+	high costs of new requirements for T4.2, T5, R and S	–	0
				access to a wider market with less administrative burden	+	
				new specific technical requirements needed	-	
				increase in road safety	+	
				gains from harmonised designs	+	
	3- Complete the EC TA requirements; leave EC WVTA optional for certain categories (T4, T5, C, R and/or S)	completion of the internal market (optional)	+	allows open market with cheapest option	+	.
				new specific technical requirements needed	-	
				increase in road safety	+	
				gains from harmonised designs	+	

In conclusion, the preferred options would be to simplify the legislation by introducing a co-decision Regulation with a limited number of implementing Regulations through Comitology, using available standards from UNECE, OECD, ISO and CEN/CENELEC as much as possible; the technical provisions should be completed as already foreseen in the Framework Directive; some of the road safety related prescriptions should be made mandatory (as is already the case for emission requirements for all tractors).

7. MONITORING AND EVALUATION

No specific system is foreseen but the Commission's Working Group on Agricultural Tractors will be used for the follow-up with the implementing measures.

ANNEX

Objective 1 : Simplification of the regulatory framework through a split-level approach					
Indicators	Option 1		Option 2		Option 3
	No policy change		Replace current framework by 2 regulations		Replace current framework by [4] regulations
Costs					
Annual cost to EU-27	€29,160 to €2,435, 400 average €533,993		€7,560 to €1,217,700 average €320,153		
Initial investment cost			€18,225 to €3,653,100 average €909,225		
Benefits					
Cumulative benefit (Costs include an uplift of 2 % per annum and a discount rate of 3,5 %)		Year	Lower limit	Average	Upper Limit
		1	€3,375	- €695,385	- €2,435,400
		5	€86,690	€129,430	€2,261,461
		10	€184,219	€1,094,970	€7,759,675

COST / BENEFIT COMPARISON TABLE

Objective 2: Simplification through use if international standards			
Indicators	Option 1	Option 2	Option 3
	<i>No policy change</i>	<i>Use when possible references to UNECE Regulations</i>	<i>Use references to all relevant international standards</i>
Costs			
Type approval costs	Approximate costs per type (component) on average: €15,000 The cost of one whole vehicle-type approval can be above €100,000		
Translation costs			
Annual staff cost for	Estimated average annual cost to attend EC.UNECE.OECD. ISO		Estimated average annual cost to attend meetings

attending meetings	& CEN meetings €1,135,085 (range: € 310,536 to €2,608,200)		with reference to existing standards € 1,078,331 (range: € 279,482 to €2,608,200)
Investment cost for EU-27			€ 909,225 (range: €18,225 to €3,653,100)
Benefits			
Annual saving from Type approval costs			0
Annual average savings from attending meetings			€31,054 (range: €0 to €56,754)
Translations			0

Objective 3 : Completion of the regulatory framework				
Indicators	Option 1	Option 2		Option 3
	No policy change	Complete the EC type-approval requirements and make EC type-approval mandatory for all categories of vehicles		Complete the EC type-approval requirements and leave EC whole type-approval optional for certain categories of vehicles (T4,T5,C,R and S)
Costs				
Estimated average cost per vehicle category (1)		T4.1	€0	similar to option 2
		T4.2	€112,500,000	
		T4.3	€0	
		T5	€40,625,000	
		C	€0	
		R	€200,195,313	
		S	€257,812,500	
Estimated average annual administrative costs (2)		€36,190,000		
Total cost (1+2)		€647,322,813 (range: €364,440,000 to €996,565,000)		
Average investment cost ⁴ for EU-27		€32,980,000* (range: €3,860,000 to €62,100,000)		
Benefits				
Estimated casualty savings		€50,750,409		
Estimated average cumulative benefits (Costs include an uplift of 2 % per annum and a discount of 3,5 %)		Year 1: - €629,552,403 Year 5: - €3,057,835,295 Year 10: - €5,900,418,586		
Benefits from standardisation (saved by buyers)		T4.2 Category: benefit of €22,500, 000 (average) on 9,000 vehicles registered p.a. R Category: benefit of €68,750,000 (average) on 125,000 vehicles registered p.a. S Category: benefit of €812,500,000 (average) on 500,000 vehicles registered p.a.		

