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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
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Subject:	Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 715/2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and 6) and on access to vehicle repair and maintenance information <i>-Any other business item - Information from the Presidency</i>

Political context of the Commission proposal

Commission Regulation (EU) 2016/646 sets out conformity factors used to assess the compliance of light passenger and commercial vehicles with the emission limits laid down in Regulation (EC) No 715/2007, while performing a real driving emission test. Conformity factors were initially adopted by the Commission in the framework of comitology to progressively reduce the discrepancy between emissions measured in real driving and those measured in a laboratory.

However, the General Court ruled in its decision of 13 December 2018 that the Commission acted outside of its powers in setting the conformity factors for NOx emissions via comitology procedure instead of ordinary legislative procedure. The General Court annulled those provisions in Commission Regulation (EU) 2016/646. Nevertheless, the Court did not question the technical needs for conformity factors.

In reaction to the General Court ruling, which has been appealed, the Commission submitted a new legislative proposal on 14 June 2019 in order to replace the content of the partially annulled Commission Regulation (EU) 2016/646.

Main elements of the Commission proposal

The proposed Regulation includes the same conformity factors for nitrogen oxides (NOx) as in the partially annulled Commission Regulation (EU) 2016/646. It provides for a two-step procedure, namely temporary conformity factors during a first step, and the final conformity factors during a second step. In addition, the proposal empowers the Commission to further review the conformity factors and to adapt them to technical progress in order to gradually reduce the discrepancy between NOx emissions under real driving and those measured in laboratory.

A rapid adoption of the proposal is necessary

The Presidency is bringing this proposal to the attention of Ministers to stress the intention to work towards a swift adoption of the proposal. A rapid adoption is important in order to ensure clarity of standards governing emissions that have an impact on air quality. Manufacturers need to have clarity about the applicable rules as soon as possible. This is also the view of the majority of Member States. At this early stage, the discussion among Member States mainly focused on the correct delegation of power to the Commission.

The same AOB item will also be presented at the Environment Council on 4 October in order to give the Environment Ministers an opportunity to present their views on the environmental aspects of the proposal.

The work on the proposal will continue with a view to establishing a mandate for negotiations with the European Parliament as soon as the latter is ready.