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'I' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
No. Cion doc.:	8991/18
No. prev. doc.:	10106/18
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending and correcting Regulation (EU) No 167/2013 on the approval and market surveillance of agricultural and forestry vehicles <i>- Confirmation of the final compromise text with a view to agreement</i>

I. INTRODUCTION

1. On 16 May 2018, the Commission transmitted the above-mentioned proposal for a Regulation to the European Parliament and to the Council.
2. This proposal for a Regulation covering agricultural and forestry vehicles aims to correct certain editorial errors and to bring a few updates to technical progress in the text. In addition, the proposal aims to grant the empowerment to the Commission to adopt delegated acts for another period of five years with tacit extension for further periods of five years.

3. On 27 June 2018 the Permanent Representatives Committee agreed to mandate the Presidency to begin negotiations with the European Parliament with a view to reaching an agreement in first reading.
4. The European Economic and Social Committee issued its opinion on 19 September 2018.¹
5. The Internal Market and Consumer Protection (IMCO) Committee voted on its report on 11 October 2018.

II. STATE OF PLAY

6. This proposal was discussed at a technical meeting with European Parliament and Commission on 16 October 2018 and a follow-up meeting of Working Party on Technical Harmonisation (Motor Vehicles) on 23 October 2018. Additional informal contacts between the institutions were necessary in order to clarify the insertion of a new recital 1a on the future definition of the different categories of agricultural tractors. A compromise proposal on this issue was agreed via silence procedure within the framework of the Working Party of Technical Harmonisation (Motor Vehicles) on 10 January 2019. Therefore a provisional agreement on this proposal was reached.
7. The original Commission proposal combined an amending act with a corrigendum. As it is impossible to adopt a corrigendum through the Ordinary Legislative Procedure, all institutions agreed to the merger of Article 1 (amendments) and Article 2 (corrections), making everything an amendment. As part of the merger, all references to correction were removed, which resulted in the final compromise text as set out in the Annex to this note

¹ EESC INT/866.

III. CONCLUSION

8. Against this background, the Permanent Representatives Committee is invited to:
- (a) approve the final compromise text regarding the Regulation of the European Parliament and of the Council amending Regulation (EU) N° 167/2013 on the approval and market surveillance of agricultural and forestry vehicles, as set out in the Annex to this note, and
 - (b) confirm that the Presidency can indicate to the European Parliament that, should the European Parliament adopt its position at first reading concerning the Regulation of the European Parliament and of the Council amending Regulation (EU) N° 167/2013 on the approval and market surveillance of agricultural and forestry vehicles, as set out in the Annex to this note, subject, if necessary, to revision of that text by the lawyer-linguists of both institutions, the Council would approve the European Parliament's position and the act shall be adopted in the wording which corresponds to the European Parliament's position.

PE-CONS No/YY - 2018/0142(COD)

REGULATION (EU) 2019/...
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of ...

**amending Regulation (EU) No 167/2013 on the approval and market surveillance of
agricultural and forestry vehicles**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee²,

Acting in accordance with the ordinary legislative procedure³,

² *OJ C 440, 6.12.2018, p. 104*

³ *Position of the European Parliament of ... (not yet published in the Official Journal) and Decision of the Council of*

Whereas:

- (1) The descriptions of T1 and T2 category vehicles require clarification regarding the position of the axle closest to the driver for tractors with reversible driving position and regarding the method of calculating the height of the centre of gravity. In order to accurately and uniformly establish the height of the centre of gravity for T2 category vehicles, reference should be made to internationally applicable standards which determine the centre of gravity of a tractor.

- (1a) An accurate definition of the different features of agricultural tractors based on the analysis of their technical characteristics is of utmost importance for the correct and complete implementation of this Regulation and of the delegated and implementing acts adopted under it. Considering that discussions on the definitions of the categories take place in the relevant international fora, of which the European Union is a party, such work should be taken into account by the Commission to prevent any disproportionate and negative effects on application of technical requirements and test procedures, as well as on negative impact for the manufacturers, in particular of highly specialized tractors.***

- (2) Regulation (EU) No 167/2013 empowers the Commission to adopt delegated acts for a period of five years, which ***expired*** on 21 March 2018. As there is a continuing need to update various elements of the type-approval process as laid down by Regulation (EU) No 167/2013 ***of the European Parliament and of the Council***⁴ and the acts adopted pursuant to it, in particular to adapt it to technical progress or to introduce corrections, the period for the exercise of the delegation of power laid down in that Regulation should be extended with also the possibility for further tacit extensions.
- (3) Article 76(1) of Regulation (EU) No 167/2013 of the European Parliament and of the Council⁵, erroneously refer to the repeal of Council Directive 74/347/EEC⁶ rather than to the repeal of Directive 2008/2/EC ***of the European Parliament and of the Council***⁷, which codified the former Directive. It is therefore necessary to amend those references in Regulation (EU) No 167/2013.

⁴ ***Regulation (EU) No 167/2013 of the European Parliament and of the Council of 5 February 2013 on the approval and market surveillance of agricultural and forestry vehicles (OJ L 060 2.3.2013, p. 1).***

⁵ Regulation (EU) No 167/2013 of the European Parliament and of the Council of 5 February 2013 on the approval and market surveillance of agricultural and forestry vehicles (OJ L 060 2.3.2013, p. 1).

⁶ Council Directive 74/347/EEC of 25 June 1974 on the approximation of the laws of the Member States relating to the field of vision and windscreen wipers for wheeled agricultural or forestry tractors (OJ L 191 15.7.1974, p. 5).

⁷ Directive 2008/2/EC of the European Parliament and of the Council of 15 January 2008 on the field of vision and windscreen wipers for wheeled agricultural or forestry tractors (Codified version) (OJ L 24, 29.1.2008, p. 30).

- (4) In Article 2(2) of Regulation (EU) No 167/2013, the term ‘interchangeable machinery’ should be replaced by the term ‘interchangeable ■ equipment’ in order to ensure the correct and consistent use of terminology throughout that Regulation.
- (5) In Article 12(3) of Regulation (EU) No 167/2013, importers are erroneously required to retain a copy of the certificate of conformity rather than that of a type-approval certificate in respect of products that are not in conformity with that Regulation or which present a serious risk. Article 12(3) should therefore be amended to refer to the appropriate document.
- (6) Article 25(1) of Regulation (EU) No 167/2013 erroneously requires that an EU type-approval certificate contains, as an attachment, the test results rather than the test results sheet. Consequently, Article 25(1) should be amended to refer to the appropriate attachment.

(7) As this Regulation modifies Regulation (EU) No 167/2013 without expanding its regulatory content, and since the objectives of this Regulation cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

(8) Regulation (EU) No 167/2013 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1
Amendments to Regulation (EU) No 167/2013

Regulation (EU) No 167/2013 is amended as follows:

(1) In Article 2, paragraph 2 is replaced by the following:

“This Regulation shall not apply to interchangeable equipment that is fully raised from the ground or that cannot articulate around a vertical axis when the vehicle to which it is attached is in use on a road.”;

(2) Article 4 is amended as follows:

(a) point (2) is replaced by the following:

“(2) ‘category T1’ comprises wheeled tractors, with the closest axle to the driver having a minimum track width of not less than 1 150 mm, with an unladen mass, in running order, of more than 600 kg, and with a ground clearance of not more than 1 000 mm; for tractors with a reversible driving position (reversible seat and steering wheel), the closest axle to the driver is the one fitted with the largest diameter tyres;”;

(b) point (3) *is replaced by the following:*

“(3) ‘category T2’ comprises wheeled tractors with a minimum track width of less than 1 150 mm, with an unladen mass, in running order, of more than 600 kg, with a ground clearance of not more than 600 mm; if the height of the centre of gravity of the tractor (determined in accordance with ISO standard 789-6:1982 and measured in relation to the ground) divided by the average minimum track for each axle exceeds 0,90, the maximum design speed shall be restricted to 30 km/h;”;

(3) *in Article 12, paragraph 3 is replaced by the following:*

“3. Importers shall, for a period of 10 years after the placing on the market of the vehicle and for a period of five years as from the placing on the market for a system, component or separate technical unit, keep a copy of the type approval certificate at the disposal of the approval and market surveillance authorities and ensure that the information package as referred to in Article 24(10) can be made available to those authorities, upon request.”;

(4) *in Article 25(1), point (b) is replaced by the following:*

“(b) the test results sheet;”;

(5) *in Article 39(1), the second subparagraph is replaced by the following:*

“The first subparagraph shall apply only to vehicles within the territory of the Union which were covered by a valid EU type-approval at the time of their production, but which had neither been registered nor entered into service before that EU type-approval lost its validity.”;

(6) in Article 71, paragraph 2 is replaced by the following:

“2. The power to adopt delegated acts referred to in Article 17(5), Article 18(4), Article 19(6), Article 20(8), Article 27(6), Article 28(6), Article 45(4), Article 49(3), Article 53(12), Article 61 and Article 70 shall be conferred on the Commission for a period of five years from 22 March 2013. The delegation of power shall be tacitly extended for further periods of five years, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period. The Commission shall draw up a report in respect of the delegation of power not later than 22 June 2022 and nine months before the end of each subsequent five-year period.”;

(7) *in Article 76, paragraph 1 is replaced by the following:*

“1. Without prejudice to Article 73(2) of this Regulation, Directive 2003/37/EC as well as Directives 76/432/EEC, 76/763/EEC, 77/537/EEC, 78/764/EEC, 80/720/EEC, 86/297/EEC, 86/298/EEC, 86/415/EEC, 87/402/EEC, 2000/25/EC, 2008/2/EC, 2009/57/EC, 2009/58/EC, 2009/59/EC, 2009/60/EC, 2009/61/EC, 2009/63/EC, 2009/64/EC, 2009/66/EC, 2009/68/EC, 2009/75/EC, 2009/76/EC and 2009/144/EC shall be repealed with effect from 1 January 2016.”

I

Article 2
Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at...,

For the European Parliament
The President

For the Council
The President