



COMMISSION OF THE EUROPEAN COMMUNITIES

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Amended proposal 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**

(Recast version)

(presented by the Commission pursuant to
Article 250 (2) of the EC Treaty)

Amended proposal 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**

(Recast version)

(Text with EEA relevance)

1. HISTORY OF THE PROPOSAL

Commission's adoption of the proposal :	14 July 2003
Transmission of the proposal to the European Parliament and to the Council COM(2003)418 – 2003/0153 (COD) – C5-0320/2003 in accordance with Article 95 of the EC Treaty :	14 July 2003
Opinion of the European Parliament – 1 st Reading :	11 February 2004
Opinion of the European Economic and Social Committee :	28 January 2004

2. OBJECTIVE OF THE COMMISSION PROPOSAL

This proposal constitutes the second and last stage of the recasting of the framework Directive 70/156/EEC¹ 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/EC². The second stage consists of the recasting of the enacting part of the directive.

Since 1970, Directive 70/156/EEC has been the main legal instrument at the disposition of the European Community to implement the single market in the automotive sector. Under Directives 92/53/EEC³, 2002/24/EC⁴ and 2003/37/EC⁵,

¹ Council Directive 70/156/EEC 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 – OJ L 42 of 23.2.1970, p. 1.

² Commission Directive 2001/116/EC of 20 December 2001 adapting to technical progress Council Directive 70/156/EEC – OJ^o L 018 of 21.1.2002, p. 1.

³ Council Directive 92/53/EEC of 18 June 1992 amending Directive 70/156/CEE - OJ L 225 of 10.8.1992, p. 1.

⁴ Directive 2002/24/CE of the European Parliament and of the Council of 18 March 2002 relating to the type-approval of two or three-wheel motor vehicles and repealing Council Directive 92/61/EEC – OJ L 124 of 9.5.2002, p. 1.

the single market has been established for all vehicle categories , with the exception of commercial vehicles, including buses and coaches.

In the frame of this recasting, the Commission is proposing to extend to those vehicles the principles of the Community approval. From the date of entry into force of the Directive (scheduled for 1st January 2006), a manufacturer will be able to apply for one Community approval instead of the 25 national approvals currently required. From a later date, he will have to put on the market only vehicles built in conformity with the Community technical provisions.

Independently from these technical aspects, the proposal for a Directive includes the necessary provisions regarding the introduction of a new legislative approach aiming to ease the adoption of technical requirements in the automotive sector.

3. COMMISSION OPINION ON THE AMENDMENTS ADOPTED BY THE PARLIAMENT

During its session from 9 to 12 February 2004, the European Parliament adopted a resolution (P5_TA-PROV(2004) 0087) based on the Report A5-0025/2004 prepared by Mr. Giuseppe GARGANI, containing 34 amendments.

3.1. Amendment accepted by the Commission (Amendment 20 - Article 41(2))

In the initial proposal, the Member States were invited to report to the Commission concerning the practical application of the EC type-approval before 1st April 2007. By means of Amendment 20, the Parliament wishes that the Commission produces a report of the gathered information and communicates it to the Parliament and to the Council by 1 October 2007.

3.2. Amendments partially accepted or accepted in principle by the Commission (Amendments 3, 6, 7, 8, 9, 10, 12, 21, 22)

3.2.1. Amendment 3 - Article 2(2) and (3)

By means of Amendment 3, the Parliament wishes to permit the type-approval or individual approval of special vehicles on an optional basis. The Commission can accept only partially Amendment 3. The Commission believes that special vehicles can only be granted individual approvals for the reason that there exists no specific separate directive covering those categories of vehicles (this is truly the case for armoured vehicles intended for the army or tracked vehicles). The Commission can accept Amendment 3, subject to the following redrafting of paragraph 3:

(3) Individual approval under this Directive is optional for the following vehicles

a) vehicles designed and constructed for use principally on construction sites or in quarries, port or airport facilities;

⁵ Directive 2003/37/CE of the European Parliament and of the Council of 26 May 2003 on type-approval of agricultural or forestry tractors, their trailers and interchangeable towed machinery, together with their systems, components and separate technical units and repealing Directive 74/150/EEC - OJ L 171 of 9.7.2003, p. 1.

b) armoured vehicles designed and constructed for use by the army, civil defence and forces responsible for maintaining public order;

c) mobile machinery;

d) tracked vehicles;

e) vehicles intended exclusively for racing on roads;

f) prototypes of vehicles used on the road under the responsibility of a manufacturer to perform a specific test programme.

3.2.2. Amendment 6 – Article 17(8)

The Commission acknowledges that the identification of end-of-series vehicles by means of the certificate of conformity would create a number of practical issues. It agrees therefore with the deletion of the first subparagraph of Article 17(8). However, the Commission considers that the number of vehicles which benefit from the ‘end-of-series’ provisions must be effectively monitored by the Member States, therefore, the Commission wants to maintain the second subparagraph of paragraph 8. In order to ensure the consistency of the whole text, the second subparagraph has been redrafted and moved to Article 26.

Amendment 6 is redrafted as follows :

New Article 26(5)

“ The Member States shall apply appropriate measures to ensure that the number of vehicles to be registered or put into service in the framework of the procedure under paragraphs 1 to 4 is effectively monitored ”.

3.2.3. Amendment 7 – Article 22(3)

Article 22(2) aims to allow Member States to lay down specific provisions with respect to national type-approval of vehicles produced in small series. The Commission in its initial proposal requested that national provisions laid down in application of Article 22 could not be prejudicial to the main orientations taken by the Community. Amendment 7 has, as objective, to restrict these orientations to the road safety and protection of the environment aspects. The Commission, while agreeing with the Parliament’s views, believes that a level of ‘satisfactory’ protection cannot be assessed objectively, and therefore proposes to replace it by the word ‘equivalent’. The Commission can accept Amendment 7 subject to the following redrafting :

“ (3) A waiver pursuant to paragraph 1 shall only be granted where an equivalent level of protection of road safety and the environment is provided. ”

3.2.4. Amendment 8 – Article 22(5a)

Through Amendment 8, the Parliament wishes to establish the conditions of a mutual recognition of the national approvals granted by a Member State. The Commission agrees to specify these conditions in Article 22. The Commission can accept this

amendment subject to the following redrafting, aiming to better reflect the substance of Articles 28 and 30 of the EC Treaty :

Insert a new Article 22(6)

“ With regard to a vehicle which has been type-approved by a Member State in accordance with the provisions of this Article, another Member State may not refuse its registration, or prohibit its sale or entry into service, unless that Member State can prove that, despite the documentation supplied by the manufacturer, the vehicle constitutes a risk to public health, in particular with regard to road safety, or to the environment. ”

3.2.5. *Amendment 9 – Article 23(1)*

The Commission can accept in principle Amendment 9 in so far as a unique vehicle would also be covered by an individual approval even if it complies with all the provisions of the Community legislation. The Commission can accept Amendment 9 subject to its redrafting as follows :

Insert a new Article 23(4)

“ At the request of the manufacturer or of the owner of the vehicle, Member States shall grant an individual approval to a vehicle which complies with the provisions of this Directive and with the regulatory acts listed in Annex IV or XI. ”

3.2.6. *Amendment 10 – Article 23(1)*

Amendment 10 is similar to Amendment 9 and can be accepted in principle, with respect to the coverage of vehicles that are really unique. However, the Commission believes that a ‘satisfactory’ level cannot be assessed objectively and therefore proposes to replace it by the word ‘equivalent’. The Commission can accept Amendment 10, subject to the following redrafting :

“ (1) Member States may exempt a particular vehicle, whether unique or not, from compliance with one or more of the provisions of this Directive or with one or more of the regulatory acts listed in Annex IV or XI, provided that they impose comparable national requirements based on those measures which ensure an equivalent level of environmental protection and road safety. ”

As a result of this modification, the definition of ‘individual approval’ in Article 3(5) (ex 4)⁶ is adapted accordingly:

“(5) ‘individual approval’ means the procedure whereby a Member State certifies that a particular vehicle, whether unique or not, satisfies the relevant administrative provisions and technical requirements;”

3.2.7. *Amendment 12 – Article 23(2)*

Amendment 12 has the objective to establish the conditions for the mutual recognition of individual approvals granted by a Member State. The Commission

⁶ See also amendments included in point 6.2. 3.

agrees that it is appropriate to specify these conditions in Article 23, subject to the following redrafting aiming to better reflect the principles laid down in Articles 28 and 30 of the EC Treaty :

Insert a new Article 23(5)

“ With regard to a vehicle which has been granted an individual approval by a Member State in accordance with the provisions of this Article, another Member State may not refuse its registration, or prohibit its sale or entry into service, unless that Member State can prove that, despite the documentation supplied by the applicant, the vehicle constitutes a risk to public health, in particular with regard to road safety or to the environment. ”

3.2.8. *Amendments 21 and 22 – Annex XII, Tables A1 and A2*

The Commission can accept in principle Amendments 21 and 22 relating to vehicles produced in small series. However, the Commission believes that the simplification of the administrative procedure and the simplification of the tests to be undergone, in case of small series type-approval, should be restricted to manufacturers which produce mainly small series vehicles. Consequently, the Commission does not want to extend the limits for small series beyond what is really necessary to favour SME's. The Commission can accept Amendments 21 and 22 subject to the following changes :

Annex XII Table A1 : 1000

Annex XII Table A2 : 75

3.3. Amendments rejected by the Commission (Amendments 1, 2, 4, 5, 11, 13, 14, 15, 16, 17, 18, 19, 23 to 34)

3.3.1. *Amendment 1 – New recital 10a*

With this new Recital, the Parliament wishes to establish a link with the legislative work pursued in WP.29 in Geneva. However, Amendment 1 relates to provisions which are already laid down in Council Decision 97/836/EC⁷. It is therefore not necessary to include such a new recital in this Directive.

3.3.2. *Amendments 2, 5, 17, 18 – New Recital 13a, Article 3 point(24a), Article 34*

These four amendments aim to include, in the proposed Directive, provisions which require manufacturers to give independent operators access to any technical information held by the manufacturers, in order to ensure proper repair and servicing

⁷ Council Decision of 27 November 1997 with a view to accession by the European Community to the Agreement of the United Nations Economic Commission for Europe concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted to and/or be used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted - OJ L 346 of 17.12.1997, p. 78.

of vehicles. Similar provisions are already laid down in Commission Regulation (EC) 1400/2002⁸ and it is not necessary to copy them in this Directive.

3.3.3. *Amendment 4 – Article 3(13)*

With respect to the definition of ‘*mobile machinery*’, Amendment 4 is inappropriate because it would refer to the existing definition of ‘*non-road mobile machinery*’, which has been laid down in Directive 97/68/EC⁹ on pollutant emissions from engines to be installed in machinery. The Commission believes that, in respect of vehicle type-approval, the scope of the definition must be limited around the concept of ‘vehicle’.

3.3.4. *Amendment 11 – Article 23(2)*

According to Article 3(24), the term ‘manufacturer’ must be understood as indicating either the manufacturer or his representative. Therefore the Commission rejects this amendment because it considers it superfluous.

3.3.5. *Amendment 13 – Article 25*

Through Amendment 13, the Parliament wishes to impose the manufacturer to stamp several VIN markings at different places in a vehicle. The stamping of these additional VIN markings would serve to facilitate the identification of vehicles. The Commission believes that these provisions would enter in conflict with other provisions contained in Directive 76/114/EEC¹⁰, specifically devoted to VIN markings, which is of compulsory application for certain categories of vehicles.

3.3.6. *Amendment 14 – Article 26(3)*

In application of Point 4 of the ‘Interinstitutional Agreement¹¹’ on the recasting technique for legal acts, the Commission rejects Amendment 14 which concerns the codification part of Directive 70/156/EEC as it does not constitute a new provision.

3.3.7. *Amendments 15 and 16 – Article 30(1) and 30(2)*

Amendments 15 and 16 aim to extend the link established between the Directive on ‘product safety¹²’ and the Directive on ‘type-approval’ to the life expectancy of certain vehicle components. These amendments are incompatible with the scope of the Directive on product safety and the type-approval Directive, which only concern

⁸ Commission Regulation (EC) No 1400/2002 of 31 July 2002 on the application of Article 81(3) of the Treaty to categories of vertical agreements and concerted practices in the motor vehicle sector - OJ L 203 of 1.8.2002, p. 30.

⁹ Directive 97/68/EC of the European Parliament and of the Council of 16 December 1997 on the approximation of the laws of the Member States relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery - OJ L 59 of 27.2.1998, p. 1.

¹⁰ Council Directive 76/114/EEC of 18 December 1975 on the approximation of the laws of the Member States relating to statutory plates and inscriptions for motor vehicles and their trailers, and their location and method of attachment - OJ L 24 of 30.1.1976, p. 1.

¹¹ Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts - OJ° C 077 of 28.3.2002, p. 1.

¹² Council Directive 92/59/EEC of 29 June 1992 on general product safety- OJ L 228 of 11.8.1992, p. 24.

road safety, environmental protection and public health. Therefore it cannot be accepted by the Commission.

3.3.8. *Amendment 19 – Article 40(3)*

Amendment 19 is linked to Amendment 3. Its objective is to not require the use of the certificate of conformity for registration purposes where the Community type-approval is only optional. Taking account of the position expressed with respect to Amendment 3, the Commission can only reject Amendment 19.

3.3.9. *Amendments 23 to 34 – Annex XVI*

These amendments aim to postpone by several years the application of the EC approval for commercial vehicles, including buses and coaches. The Commission rejects these amendments which would delay unnecessarily the application of the Community approval in an essential industrial sector. The delay would be detrimental to the interests of the manufacturers who are the major beneficiaries of the approximation of the administrative and technical provisions regarding vehicle approval.

4. INTRODUCTION OF REGULATIONS AS ALTERNATIVE TO SEPARATE DIRECTIVES

With a view to simplifying the administrative process leading to the application of EC type-approval legislation at national level (that is, transposition of directives and notification of the national legislation to the Commission), and in view of the precise and detailed character of such legislation, the possibility of using regulations as legislative instruments instead of directives should be foreseen. This is totally in accordance with the status of the Community type-approval which will become obligatory for all categories of vehicles, when the proposed Directive will have been adopted.

Since the original Commission proposal only refers to separate directives, the word '*regulations*' has to be added where appropriate in the text after the words '*separate directives*'. The necessary amendments are as follows :

4.1. Amendments to articles

1) In Article 3, Definition (29)(ex 28),

i) the words '*or regulation*' shall be added after the words '*separate directive*' ;

ii) the words '*listed in Annex IV, Part II or Part III,*' shall be replaced by the words '*listed in Annex IV, Part I or Part II,*'.

2) In Article 3, Definition (32)(ex 31), the words '*or regulation*' shall be added after the words '*separate directive*'.

3) In Articles 7(2) and 7(4), the words '*or regulations*' shall be added after the words '*separate directives*'.

- 4) In Articles 10(1) and 10(2), the words 'or regulation' shall be added after the words '*separate directive*'.
- 5) In Article 18(1), the words 'or regulation' shall be added after the words '*separate Directive*'.
- 6) In Article 20(1), the words 'or regulations' shall be added after the words '*separate directives*'.
- 7) In Article 36, the title shall be amended to read : '**Implementation measures and amendments to this Directive, the separate directives and regulations.**'
- 8) In Article 36(1), the words 'or regulation' shall be added after the word '*directive*' (two times).
- 9) In Article 36(2) 1st subparagraph, the words 'or regulations' shall be added after the words '*separate Directives*'.
- 10) In Article 36(6)(ex 4) the words 'or regulation' shall be added after the words '*separate Directive*'.

4.2. Amendment to the annexes

- 1) In the heading, 1st paragraph of Annex I, the words 'or regulations' shall be added after the words '*separate Directives*'.
- 2) In the first subparagraph of Annex IV Part II, the words 'or regulation' shall be added after the words '*separate Directive*' (two times).
- 3) In the endnote ⁽¹⁾ associated to the table in Annex IV Part II, the words 'or regulations' shall be added after the words '*separate Directives*'.
- 4) In Annex VI Model B and Model C, sixth sentence, a slash and the word 'Regulation ⁽¹⁾' including a cross-reference to footnote ⁽¹⁾ shall be added, both after the word '*with regard to Directive*' and '*as last amended by Directive*' (four times).
- 5) In the addendum to Section II to Annex VI Model B, item 2, the word 'EC' shall be deleted and the words 'or regulation' shall be added after the words '*this Directive*'.
- 6) In Annex VII, the words 'or regulation' shall be added after the word '*Directive*' in the following paragraphs : paragraph 1, section 2 ; paragraph 1, section 3 first sentence ; paragraph 1, section 3, 3rd and 4th indent ; paragraph 1, section 4 (six times).
- 7) In paragraph 1.2. of Appendix 1 to Annex VII, the words 'or regulation' shall be added after the words '*separate Directive*'.
- 8) In paragraph 1.3. of Appendix 1 to Annex VII and in the Legend of the addendum to Appendix 1, the words 'or regulations' shall be added after the words '*separate Directives*'.

9) In the heading of Annex IX Part I, Side 2 related to complete or completed vehicles of category M₁, and to complete or completed vehicles of category N₁, N₂ and N₃, the term 'EC' in '*EC type-approval documentation*' shall be deleted (two times).

10) In the heading of Annex IX Part II, Side 2 related to incomplete vehicles of category M₁, the term 'EC' in '*EC type-approval documentation*' shall be deleted.

11) In Annex X, paragraph 1.2.2., the associated footnote ⁽²⁾, paragraphs 2.1. and 3.3., the words 'or regulation' shall be added after the word '*Directive*' (five times).

12) In Annex X, paragraphs 2.2. and 2.3.5., the words 'or regulations' shall be added after the words '*separate Directives*'.

5. CLARIFICATION OF MEMBER STATES' OBLIGATIONS WITH REGARD TO THE FREE MOVEMENT OF APPROVED VEHICLES, COMPONENTS AND SEPARATE TECHNICAL UNITS

In order to ensure that the provisions on the approval of motor vehicles laid down in this Directive and in the separate regulatory acts are not undermined by the imposition of national construction and functioning requirements on vehicles after they have been sold, registered and/or put into service, a free circulation clause has been introduced in the third paragraph of Article 4. In addition, in the second paragraph of Article 1 (concerning the subject matter) it has been clarified that the technical requirements for the approval of vehicles concern their construction and functioning.

5.1. Amendment to Article 4.3:

At the end of Article 4.3, the following sentence shall be added:

'They shall not prohibit, restrict or impede the registration, sale, entry into service or circulation on the road of vehicles, components or separate technical units, on grounds related to their construction and functioning, if they satisfy the requirements of this Directive.'

5.2. Amendment to Article 1:

In the second paragraph of Article 1, the words '*concerning the construction and the functioning of vehicles*' shall be added after the words '*Specific technical requirements*'.

6. INCLUSION OF UN/ECE REGULATIONS WITHIN THE EC VEHICLE TYPE-APPROVAL SYSTEM

By Council Decision 97/836/EC, the European Community has acceded to the Revised 1958 Agreement of the Economic Commission for Europe of the United Nations.

Up to now, these UN/ECE regulations were considered as alternatives to the separate Directives having the same scope. In addition, in many occasions, the text of the UN/ECE regulations was incorporated in separate directives.

In view of the parallelism between separate directives and UN/ECE regulations resulting from this practice, the UN/ECE regulations to which the Community has acceded shall be made mandatory where appropriate for the purpose of EC vehicle type-approval. This possibility is already foreseen in Article 4(4) of Council Decision 97/836/EC.

To that end, Chapter XIII has been reworked. The initially proposed Article 32 has been divided in two, the first one concerning UN/ECE regulations which are added as new requirements for EC vehicle type-approval, and the second one, concerning the conditions of equivalence.

The necessary amendments to the proposed Directive are as follows.

6.1. Amendments to Recitals

The last sentence of Recital 10 shall be amended to read :

[should be incorporated within the] ‘Community type-approval procedure either as requirements for EC vehicle type-approval, or as alternatives to the existing Community law. In particular, where the Community decides, by means of a Council decision, that a UN/ECE regulation shall become part of the EC whole vehicle type-approval procedure and replace existing Community law, the necessary adaptations should be made to this Directive by the regulatory procedure provided in Council Decision 1999/468/EC.’

6.2. Amendments to Articles

6.2.1. Amendments to Article 20

A new subparagraph shall be added to Article 20(1) to read :

‘Where the exemption pursuant to Article 19 relates to a UN/ECE regulation, the Commission shall propose an amendment to the relevant UN/ECE regulation in accordance with the procedure applicable under the 1958 Agreement.’

6.2.2. Amendments to Chapter XIII

The title of Chapter XIII shall be replaced by the following title :

‘ CHAPTER XIII

INTERNATIONAL REGULATIONS’

6.2.3. Amendments to Article 32

1) Article 32 shall be replaced by the following text :

'Article 32

UN/ECE regulations required for EC type-approval

1. *UN/ECE regulations to which the Community has acceded and which are listed in Annex IV Part I and in Annex XI are part of the EC vehicle type-approval under the same terms as the separate directives or regulations. They shall apply to the categories of vehicles listed in the relevant columns in the table of Annex IV Part I and Annex XI.*
2. *When the Community has decided to apply on a compulsory basis a UN/ECE regulation for the purposes of EC vehicle type-approval in accordance with Article 4(4) of Decision 97/836/EC, the annexes to this Directive shall be amended as appropriate in accordance with the procedure referred to in Article 37(2) of this Directive. The act amending the annexes to this Directive shall also specify the dates of compulsory application of the UN/ECE regulation or of its amendments. Member States shall repeal or adapt any national legislation that is incompatible with the UN/ECE regulation in question.*

Where such a UN/ECE regulation replaces an existing separate directive or regulation, the concerned entry in Annex IV Part I and in Annex XI shall be replaced by the number of the UN/ECE regulation and the corresponding entry in Annex IV Part II shall be deleted in accordance with the same procedure.

3. *In the case referred to in the second subparagraph of paragraph 2, the separate directive or regulation replaced by the UN/ECE regulation shall be repealed in accordance with the procedure referred to in Article 37(2).*

Where a separate directive is repealed, Member States shall repeal any national legislation that was adopted for the transposition of that directive.'

- 2) A new Article 32a shall be inserted between Article 32 and Article 33 to read :

'Article 32a

'Equivalence of UN/ECE regulations with directives or regulations

1. *The UN/ECE regulations listed in part II of Annex IV are recognised as being equivalent to the corresponding separate directives or regulations in as much as they share the same scope and subject matter.*

The approval authorities of the Member States shall accept approvals granted in accordance with those UN/ECE regulations and, where applicable, the pertaining approval marks, in lieu of the corresponding approvals and approval marks granted in accordance with the equivalent separate directive or regulation.

2. *Where the Community has decided to apply, for the purposes of paragraph 1, a new UN/ECE regulation or a UN/ECE regulation as amended, Annex IV*

Part II to this Directive shall be updated as appropriate, in accordance with the procedure referred to in Article 37(2).'

6.3. Amendments to Annexes

- 1) In the title of Part III of Annex III, the words 'Separate Directive EC' shall be deleted.
- 2) In the heading of the second column of the table in Part III of Annex III, the words 'EC' shall be deleted.
- 3) The heading of the third column of the table in Part III of Annex III shall be replaced by the following 'Member State or Contracting Party⁽⁺⁾ issuing the type-approval⁽⁺⁺⁾'. Two footnotes shall be associated to read : '(+) *Contracting Parties to the Revised 1958 Agreement*' and '(++) *To be indicated if not obtainable from the type-approval number*'.
- 4) In the heading of Part I of Annex IV, a new sentence shall be added after the words '*listed below*' to read : '*In respect of regulations of the United Nations Economic Commission for Europe, the reference of the regulatory act shows the relevant series of amendments of the regulation to which the Community has acceded.*'
- 5) Part III to Annex IV shall be deleted.
- 6) A new paragraph shall be added to Annex VII to read :
 - '9. *Annex VII does not apply to UN/ECE regulations listed in Annex IV of this Directive. Type-approvals granted in accordance with UN/ECE regulations shall continue to use the appropriate numbering system provided for in the respective regulations.*'

7. EDITORIAL CHANGES RESULTING FROM AMENDMENTS REFERRED TO IN SECTIONS 4 AND 5.

For the sake of simplification, each time where the terms '*separate directive*', '*regulation*' and/or '*UN/ECE regulation*' are referred to collectively, they shall be replaced by the term '*regulatory act*'. This last term is defined in a new entry in Article 3 of the proposed directive.

The necessary amendments are as follows :

7.1. Amendments to Recitals

In Recital (3), the words '*in separate directives*' and '*Those Directives*' shall be replaced respectively by '*in regulatory acts*' and '*Those regulatory acts*'.

7.2. Amendments to Articles

- 1) In Article 1, the second subparagraph shall be amended to read :

‘Specific technical requirements shall be laid down in application of this Directive in separate regulatory acts, the exhaustive list of which is set out in Annex IV to this Directive’.

2) In Article 3, 1st paragraph, the words *‘the regulatory acts’* shall replace the words *‘the directives’*.

3) In Article 3, a new definition shall be added, bearing reference number (1) to read :

‘(1) ‘Regulatory act’ means a separate directive, a regulation or a UN/ECE regulation annexed to the Revised 1958 Agreement ;’.

4) In Article 3, the former reference numbers (1) to (34) of the definitions are renumbered (2) to (35).

5) In Article 3, definition (4)(ex 3), the words *‘the regulatory acts’* shall replace the words *‘the separate directives and/or UN/ECE regulations’*.

6) In Article 3, definition (31)(ex 30), the words *‘all applicable regulatory acts’* shall replace the words *‘all applicable separate directives and UN/ECE regulations’*.

7) In Article 6(2), the words *‘the applicable regulatory acts’* shall replace the words *‘the applicable separate directives or UN/ECE regulations’* (two times).

8) In Article 6(3), the words *‘the regulatory acts’* shall replace the words *‘the separate directives or UN/ECE regulations’*.

9) In Article 9(1)(a), 9(1)b and Article 9(2), the words *‘the relevant regulatory acts’* shall replace the words *‘the relevant separate directives or UN/ECE regulations’*.

10) In Article 9(4), the words *‘the regulatory acts’* shall replace the words *‘the separate directives’*.

11) In Article 9(6), the words *‘regulatory acts’* shall replace the words *‘separate directives or UN/ECE regulations’*.

12) In Article 9(7), the words *‘regulatory acts’* shall replace the words *‘separate directives and UN/ECE regulations’*.

13) In Article 10(3), the words *‘the relevant regulatory act’* shall replace the words *‘the relevant separate directive’*.

14) In Article 11(2) 2nd subparagraph, the words *‘regulatory acts’* shall replace the words *‘separate directives and UN/ECE regulations’* and *‘separate directives or UN/ECE regulations’*.

15) In Article 13(2)(c) and Article 14(2)(c), the words *‘regulatory acts’* shall replace the words *‘separate directives or UN/ECE regulations’*.

16) In Article 16(1)(a) and Article 17(5), the words *‘regulatory act’* shall replace the words *‘separate directive or UN/ECE regulation’*.

17) In Article 19(1), the words 'regulatory acts listed in Annex IV Part I' shall replace the words '*separate directives*'.

18) In Article 20(2) 1st and 2nd subparagraph, the words 'regulatory acts' shall replace the words '*separate directives*'.

19) In Article 22(1) and Article 23(1), the words 'regulatory acts' shall replace the words '*separate directives or UN/ECE regulations*'.

20) In Article 27(1), the words 'relevant regulatory acts' shall replace the words '*relevant separate directives and/or UN/ECE regulations*'.

21) In Article 27(2), the words 'a regulatory act' shall replace the words '*a separate directive*'.

22) In Article 29(2) 2nd subparagraph, the words 'relevant regulatory acts' shall replace the words '*relevant separate directives or UN/ECE regulations*'.

23) In Article 30(1), the words 'a regulatory act' shall replace the words '*a separate directive*'.

24) In Article 34(1), the words 'regulatory acts' shall replace the words '*separate directives or UN/ECE regulations*'.

25) In Article 34(2), Article 35(1) 1st subparagraph, Article 35(2) 2nd subparagraph the words 'a regulatory act' shall replace the words '*a separate directive*'.

26) In Article 38(2), the words 'a regulatory act' shall replace the words '*a separate directive or equivalent UN/ECE Regulation*'.

7.3. Amendments to the List of Annexes

1) In item Annex VI, Appendix 1, the words 'the regulatory acts' shall replace the words '*the separate Directives and UN/ECE Regulations*'.

2) In item Annex XIII, the words '*separate Directives*' shall be replaced by the words 'regulatory acts'.

7.4. Amendments to the annexes

1) In the heading of Part I of Annex IV, the words '*separate Directives*' shall be replaced by the words 'regulatory acts' (two times).

2) The heading of the second column of the table in Part I of Annex IV shall be replaced by the following heading '**Regulatory act reference**'.

3) In the first endnote quoted 'X' under the table in Part I of Annex IV, the words '*Directive applicable*' shall be replaced by the words 'Regulatory act applicable'.

4) In the heading of Appendix 1 to Part I of Annex IV, the words '*separate Directives*' shall be replaced by the words 'regulatory acts'.

- 5) The heading of the third column of the table in Appendix 1 to Part I of Annex IV shall be replaced by the following '**Regulatory act reference**'.
- 6) In the five endnotes referred to as 'Key' under the table in Appendix 1 to Part I of Annex IV, the words '*directive*' and '*separate directive*' shall be replaced by the words 'regulatory act' (six times).
- 7) In Annex V, paragraph 1(a) shall be replaced by the following text :
- '(a) verify that all EC type-approval certificates issued pursuant to the regulatory acts which are applicable for vehicle type-approval cover the vehicle type and correspond to the prescribed requirements ;'
- 8) In Annex V, paragraph 1(b)
- i) the words '*and/or the approval certificates of the relevant separate Directive approvals*' shall be replaced by the words 'and in the EC type-approval certificates, in respect of the relevant regulatory acts,';
- ii) the words '*of any of the separate Directives*' shall be replaced by the words 'of any of the regulatory acts,'.
- 9) In Annex V, paragraph 1(c), the words '*all separate Directive EC type-approvals*' shall be replaced by the words 'of the relevant EC type-approval certificates'.
- 10) In Annex V, paragraph 3 1st sentence, paragraphs 3(a) and 3(b), the words '*relevant separate Directives*' shall be replaced by the words 'relevant regulatory acts'.
- 11) In Annex VI Model A, Section II items 1 and 2, the words '*separate Directives*' shall be replaced by the words 'the regulatory acts'.
- 12) In Annex VI Model A, Side 2, last paragraph before the tables, the words '*the separate Directives*' shall be replaced by the words 'the regulatory acts'.
- 13) In Annex VI Model A, Side 2, the heading in the two tables '**Directive number**' shall be replaced by '**Regulatory act reference**'. In the endnote under the first table, the words '*separate Directive*' shall be deleted.
- 14) In the title of Appendix 1 to Annex VI Model A, the words '*List of Directives*' shall be replaced by the words 'List of regulatory acts'.
- 15) The heading of the second column of the table in Appendix 1 to Annex VI Model A shall be replaced by '**Regulatory act reference**' and the endnote under the table shall be deleted.
- 16) In the footnote (¹) related to the title of Annex VII, the words 'regulatory acts' shall replace the words '*separate Directive*'.
- 17) In Annex VIII, paragraph 2 Results of the exhaust emission test, the text from '*Base Directive*(¹)' to '*diesel smoke*' shall be deleted.

- 18) In Annex VIII, paragraph 2.1. shall be amended to read : ‘2.1. Emissions from motor vehicles’.
- 19) In Annex VIII, paragraph 2.2. shall be amended to read : ‘2.2. Emissions from engines for use in vehicles’.
- 20) In Annex VIII, paragraph 2.3. shall be amended to read : ‘2.3. Diesel smoke’.
- 21) In Annex VIII as amended under the aforementioned items, the word ‘Directive’ shall be replaced by the words ‘regulatory act’ (eleven times).
- 22) In Annex IX Part I and Part II, the word ‘Directive’ and ‘Directives’ shall be replaced respectively by the words ‘regulatory act’ (eighteen times) or ‘regulatory acts’ (thirty-eight times).
- 23) In the tables referred to Appendix 1, 2, 3 and 4 to Annex XI, the heading of the third column shall be amended to read : ‘**Regulatory act reference**’.
- 24) In the first two endnotes (quoted X and N/A) under the tables in Annex XI, the words ‘*separate Directive*’ and ‘*Directive*’, respectively, shall be replaced by the words ‘regulatory act’.
- 25) In Annex XII, Section B, last indent, the words ‘*separate Directive*’ shall be replaced by the words ‘regulatory act’.
- 26) In the title of Annex XIII, the words ‘*separate Directives*’ shall be replaced by the words ‘regulatory acts’.
- 27) In Annex XIV, paragraph 1.1., the words ‘*separate Directives*’ shall be replaced by the words ‘regulatory instruments’.
- 28) In Annex XIV Section 2, paragraph (a) shall be replaced by the following text :
- ‘(a) verify that all EC type-approval certificates issued pursuant to the regulatory acts which are applicable for vehicle type-approval cover the vehicle type at its state of completion and correspond to the prescribed requirements ;’*
- 29) In Annex XIV Section 2, paragraph (c)
- i) the words ‘*and/or the approval certificates of the relevant separate Directive approvals*’ shall be replaced by the words ‘and in the EC type-approval certificates, in respect of the relevant regulatory acts,’;
- ii) the words ‘*of any of the separate Directives*’ shall be replaced by the words ‘of any of the regulatory acts,’.
- 30) In Annex XIV Section 2, paragraph (d), the words ‘*all relevant separate Directives EC type-approvals*’ shall be replaced by the words ‘the relevant regulatory acts’.
- 31) In Annex XV,

- i) the last sentence above the table, the word ‘*Directives*’ shall be replaced by the words ‘*regulatory acts*’.
- ii) the heading of the second column of the table shall be amended to read : ‘***Regulatory act reference***’.
- iii) the heading of the third column shall be amended to read ‘*Type-approval number*’.
- iv) the heading of the fourth column of the table shall be replaced by the following ‘*Member State or Contracting Party⁽⁺⁾ issuing the type-approval⁽⁺⁺⁾*’. Two footnotes shall be associated to read : ‘⁽⁺⁾ *Contracting Parties to the Revised 1958 Agreement*’ and ‘⁽⁺⁺⁾ *To be indicated if not obtainable from the type-approval number*’.

8. AMENDMENTS TO CHAPTER XII (SAFEGUARD CLAUSES)

Chapter XII dealing with safeguard clauses does not entail the possibility for Member States to refuse the registration, sale or entry into service in the Community of vehicles, systems, components or separate technical units which, albeit type-approved or marked according to the UN/ECE regulations, present serious risks for the customers. In so far as those regulations will be part of the EC type-approval, it is necessary to rework Article 28.

Article 28 includes provisions to allow the Commission to present appropriate measures to remedy such situations.

The necessary amendments are as follows :

8.1. Amendments to Article 28

1) In Article 28(1), the last sentence shall form a new paragraph and shall be amended to read :

‘In such cases, the Member State concerned shall immediately notify the manufacturer, the other Member States and the Commission accordingly, stating the reasons on which its decision is based and, in particular, whether it is the result of :

- *shortcomings in the relevant regulatory acts, or*
- *incorrect application of the relevant requirements.*’

2) Paragraph (2) in Article 28 shall be deleted.

3) In Article 28, three new paragraphs shall be added to read :

‘2. The Commission shall consult the parties concerned as soon as possible and, in particular, the approval authority that granted the type-approval in order to prepare the decision.

3. *Where the measures referred to in paragraph 1 are attributed to shortcomings in the relevant regulatory acts, the Commission shall propose appropriate measures as follows :*
 - *where separate directives or regulations are concerned, the Commission shall propose amendments for adoption, in accordance with the procedure referred to in Article 37(2) ;*
 - *where UN/ECE regulations are concerned, the Commission shall propose the necessary draft amendments to the relevant UN/ECE regulations in accordance with the procedure applicable under the 1958 Agreement.*
4. *Where the measures referred to in paragraph 1 are attributed to incorrect application of the relevant requirements, the Commission shall take the appropriate measures to ensure compliance with such requirements.'*

9. AMENDMENTS TO CHAPTER XV (IMPLEMENTATION MEASURES AND AMENDMENTS)

Experience has shown that in some cases, there is a need for the Commission to amend very rapidly the provisions of separate directives or regulations with a view to ensure a better protection of road users. Such amendments do not necessarily form part of the adaptation of a directive or a regulation to the development of scientific and technical knowledge but are required to compensate to shortcomings in the legislation with a view to covering risks that have been identified.

In addition, it is also necessary to allow the Commission to amend directives or regulations to ensure the coherence of the Community legislation. These amendments are of pure administrative nature and shall be adopted through 'comitology' procedure.

The necessary amendments are as follows :

9.1. Amendments to recitals

9.1.1. Amendments to Recital 14 and 15

Recitals 14 and 15 shall be merged within a new Recital 14 to read :

(14) 'With the aim of simplifying and accelerating the procedure, measures implementing the separate directives or regulations as well as measures for adapting the annexes to this Directive and the separate directives or regulations, in particular to the development of scientific and technical knowledge should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ¹³.'

¹³ OJ L 184, 17.7.1999, p. 23.

9.1.2. *A new Recital 15 shall be added*

(15) *'Experience shows that appropriate measures may have to be taken without delay with a view to ensuring a better protection of road users, where shortcomings have been identified in the existing legislation. For such urgent cases, the necessary amendments to the separate directives or regulations should be adopted in accordance with Decision 1999/468/EC.'*

9.2. Amendments to Article 36

1) A new paragraph (3) shall be added to read :

'3. *When the Commission becomes aware of serious risks to road users or to the environment, which require urgent measures, the provisions of the separate directives or regulations listed in Annex IV Part I may be amended in accordance with the procedure referred to in Article 37(2).'*

2) A new paragraph (4) shall be added to read :

'4. *Amendments which are necessary in the interest of good administration and in particular those needed to ensure the coherence of the separate directives or regulations listed in Annex IV, Part I either amongst themselves or with other pieces of Community law, shall be adopted in accordance with the procedure referred to in Article 37(2).'*

3) Former paragraphs (3) and (4) shall be renumbered, respectively (5) and (6).

10. AMENDMENTS RELATED TO THE ENLARGEMENT OF THE COMMUNITY TO THE NEW MEMBER STATES

On 1st May 2004, ten new Member States joined the European Union. It is necessary therefore, in order to permit the proper implementation of the type-approval procedures, to update the relevant annexes of the proposed Directive.

10.1. Amendments to Annex VII

In Section 1, the table shall be replaced by the following table :

- 1 for Germany;
- 2 for France;
- 3 for Italy;
- 4 for the Netherlands;
- 5 for Sweden;
- 6 for Belgium;
- 7 for Hungary;
- 8 for the Czech Republic;
- 9 for Spain;
- 11 for the United Kingdom;
- 12 for Austria;
- 13 for Luxembourg;
- 17 for Finland;
- 18 for Denmark;
- 20 for Poland;
- 21 for Portugal;
- 23 for Greece;
- 24 for Ireland;
- 26 for Slovenia;
- 27 for Slovakia;
- 29 for Estonia;
- 32 for Latvia;
- 36 for Lithuania;
- 49 for Cyprus;
- 50 for Malta.’

10.2. Amendment to Annex VII, Appendix 1

In paragraph 1, the table shall be replaced by the following table :

‘1	For Germany	18	For Denmark
2	For France	20	For Poland
3	For Italy	21	For Portugal
4	For the Netherlands	23	For Greece
5	For Sweden	24	For Ireland
6	For Belgium	26	For Slovenia
7	For Hungary	27	For Slovakia
8	For the Czech Republic	29	For Estonia
9	For Spain	32	For Latvia
11	For the United Kingdom	36	For Lithuania
12	For Austria	49	For Cyprus
13	For Luxembourg	50	For Malta’
17	For Finland		

10.3. Amendment to Annex IX

In Annex IX, side 2, the different tables under item 47 shall be replaced by the following table : (eight times)

‘Belgium:	Czech Republic:	Denmark:
Germany:.....	Estonia:	Greece:
Spain:	France:	Ireland:
Italy:	Cyprus:	Latvia:
Lithuania:	Luxembourg:	Hungary:
Malta:	Netherlands:.....	Austria:
Poland:	Portugal:	Slovenia:
Slovakia:.....	Finland:.....	Sweden:.....
United Kingdom:.....’		

11. CRITERIA FOR TECHNICAL SERVICES AND BODIES OPERATING QUALITY SYSTEM CERTIFICATION

The technical services and bodies who are entrusted by their national authorities with specific activities in the field of type-approval have to show appropriate competences.

They must demonstrate that they operate for themselves a high quality system. The appropriate requirements for such purposes are included in several EN and ISO standards which are under constant evolution. With a view to managing updating, their references are moved from Article 38 to Appendix 1 to Annex V.

11.1. Amendments to Article 38(4)

1) The subparagraphs (a), (b) and (c) shall be deleted.

2) In the remaining paragraph (4), the words ‘with the following standards with respect to’ shall be replaced by the words ‘with the standards listed in Appendix 1 to Annex V with respect to’.

11.2. Amendments to the ‘LIST OF ANNEXES’

A new entry shall be introduced in the ‘LIST OF ANNEXES’ under the title ‘Annex V’ to read :

“Appendix 1 List of standards with which the technical services and bodies referred to in Article 38 have to comply”.

11.3. Amendments to the annexes

A new Appendix 1 to Annex V shall be added to read :

“Appendix 1

List of standards with which the technical services and bodies referred to in Article 38 have to comply

- 1. EN ISO 17025 : 2000 on general requirements for the competence of testing and calibration laboratories.*
- 2. EN 45004 : 1995 or ISO/IEC 17020 : 1998 on the general criteria for the operation of various types of bodies performing inspection as regards the test witnessing activities, tests and checks related to the conformity of production.*
- 3. EN 45012 : 1989 or ISO/IEC Guide 62 1996 on the general criteria for certification bodies operating quality system certification as regards the management systems implemented by a manufacturer.”*

12. ADDITIONAL CHANGES

For the sake of clarity and simplification or with a view to giving a broader meaning to certain concepts, a few amendments must be made to the initial text.

12.1. Amendments to recitals

The text of Footnote ⁽⁴⁾ associated to Recital (1) shall be amended to read : ‘*OJ L 42, 23.2.1970, p.1.*’

12.2. Amendments to articles

12.2.1. Article 3

1) In Article 3, definitions (7), (8), (9)(ex 6, 7, 8), the word ‘procedure’ in the terms ‘*step-by-step approval procedure*’, ‘*single-step approval procedure*’ and ‘*mixed approval procedure*’ shall be deleted.

2) In Article 3, definition (13)(ex 12), shall be amended to read :

‘13) ‘*hybrid vehicle*’ means any motor vehicle fitted, in order to ensure its propulsion, with at least two different energy converters and two different sources of stored energy. When one source is electrical energy, the vehicle is called hybrid electric vehicle ;’

3) In Article 3, definition (14)(ex 13), the words ‘off the road or to perform specific work in agriculture or forestry’ shall be deleted.

4) In Article 3, definition (16)(ex 15), the word ‘complete or incomplete’ shall be deleted.

5) In Article 3, definition (21)(ex 20), the words ‘*a set of*’ shall be replaced by the words ‘an assembly of’.

6) In Article 3, definition (31)(ex 30), the words ‘it being permissible [...] of registration’ shall be deleted.

12.2.2. Article 6

1) In Article 6(2), the word ‘EC’ in the sentence ‘*In the case of the EC type-approval of a system*’ shall be deleted.

2) In Article 6(5)(b), the word ‘incomplete’ shall be deleted (two times).

12.2.3. Article 8

In Article 8(3), the comma and the words ‘in the context of the prevention of waste from vehicles, seriously harms’ shall be deleted.

12.2.4. Articles 9 and 15

In Article 9(3)(c), Article 15(1) and 15(2), the word ‘unjustified’ shall be inserted between the words ‘*without delay*’.

12.2.5. Article 12

In Article 12(1), the words ‘*in agreement with the manufacturer*’ shall be replaced by the words ‘in consultation with the manufacturer’

12.2.6. Articles 13 and 14

In Article 13(2)(a) and in Article 14(2)(a), the word 'or fresh tests' shall be inserted after the words '*further inspections*'.

12.2.7. Article 16

In Article 16(1)(a), the words '*enter into force*' shall be replaced by the words 'become compulsory'.

12.2.8. Article 17

1) In Article 17(7), the words 'the year of production and' shall be inserted before the words '*a sequential number*'.

2) In Article 17, a new paragraph 8 shall be added to read :

'8. Without prejudice to the provisions of paragraph 1, the manufacturer may transmit data or information contained in the certificate of conformity by electronic means to the registration authority of the Member State.'

12.2.9. Article 19

1) In the English version, the last subparagraph of Article 19(3) shall be numbered (4). Hence, the figure "4" at the end of the third subparagraph shall be deleted.

2) A new paragraph (4) shall be inserted to read :

'4. Pending the decision, other Member States may accept the provisional approval referred to in paragraph 2 and authorise the registration, sale and entry into service of vehicles in their territories.'

3) Former Paragraph (4) shall be renumbered (5) [this applies to all versions].

4) In Article 19(5)(ex 4), the words '*Paragraphs 1, 2 and 3 shall not be invoked*' shall be replaced by the words 'Paragraphs 1 to 4 need not be invoked'

12.2.10. Article 22

In Article 22(5), the words 'or by electronic mail' shall be added after the words '*by registered mail*'.

12.2.11. Article 23

In Article 23(2) 3rd subparagraph, the words 'except where all the requirements of Annex IV or XI are met' shall be added after the words '*that granted the approval*'.

12.2.12. Article 28

In Article 28(1), the comma and the words 'in the context of the prevention of waste from vehicles, seriously harms' shall be deleted.

12.2.13. Article 30

1) In Article 30(2), a new sentence shall be added after the first sentence to read :
'*The approval authority shall communicate the proposed measures to the other authorities without delay.*'

2) In Article 30(2), the former last sentence shall constitute a new subparagraph.

12.2.14. Article 31

In the second subparagraph, the words '*the Member States*' shall be replaced by the words : '*the Member State*'.

12.2.15. Amendments to Article 34(1)

The last words '*approved by the Member States*' shall be replaced by the words : '*approved by the approval authority*'.

12.3. Amendments to the annexes

12.3.1. Amendments to Annexes I, III and VI

In Annex I, Annex III, Annex VI section I Model A, B and C, a new entry 0.9 shall be added to read (five times) :

'0.9. Name and address of the manufacturer's representative (if any) :..... '

12.3.2. Amendment to Annex IV

1) In Annex IV, Part I, Appendix 1, the entry 'X' in the fifth column with regard to entry 50 (Couplings) shall be replaced by the entry :

X ⁽²⁾
C ⁽⁴⁾

2) In the end-note 'Key' to Annex IV, Part I, Appendix 1, the word '*general*' shall be replaced by the word '*essential*'.

12.3.3. Amendment to Annex VI

In Annex VI, model A, the references to Directive 70/156/EEC shall be replaced by the words '*Directive [This Directive...]*' and a cross-reference to footnote ⁽¹⁾ shall be added after the words '*by Directive.../.../EC.*'

12.3.4. Amendment to Annex X

In Annex X, Section 0, first subparagraph, the last part of the sentence, from [to ensure that] shall be amended to read : '*each produced vehicle, system, component and technical separate unit is in conformity with the approved type.*'

13. AMENDED PROPOSAL

Having regard to Article 250(2) of the EC Treaty, the Commission amends its proposal as indicated above.