



European Economic and Social Committee

INT/864

Type-approval with regard to the withdrawal of the United Kingdom

OPINION

European Economic and Social Committee

Proposal for a Regulation of the European Parliament and of the Council complementing EU type-approval legislation with regard to the withdrawal of the United Kingdom from the Union
[COM(2018) 397 final - 2018/0220 (COD)]

Rapporteur: **Séamus BOLAND**

Consultation	European Parliament, 02/07/2018 Council, 03/07/2018
Legal basis	Article 114 of the Treaty on the Functioning of the European Union
Section responsible	Single Market, Production and Consumption
Adopted in section	04/09/2018
Adopted at plenary	19/09/2018
Plenary session No	537
Outcome of vote (for/against/abstentions)	198/0/7

1. Conclusions

- 1.1 The EESC welcomes the European Commission proposal for a Regulation of the European Parliament and of the Council complementing EU type-approval legislation with regard to the withdrawal of the United Kingdom from the Union.
- 1.2 The EESC believes that the proposal is focused on the practical steps necessary to address real consequences for the vehicle manufacturing and distribution industry and consumers as a result of unavoidable legal changes in the certification of type-approval issues by UK authorities on the basis of EU laws.
- 1.3 In that context the EESC believes that this proposal should act as a template for many other similar agreements required as a consequence of Brexit.
- 1.4 The EESC recommends that agreement on this proposal recognise that there is a need for a reasonable lead-in time before full implementation of the new system is enforced. Overall, the cessation deadline of 29 March is far too restrictive and should be extended on agreed terms between the UK and the EU.
- 1.5 The EESC accepts that following the cessation of UK membership UK type-approval agencies can no longer certify vehicles under EU legislation and that UK-based manufacturers will have to seek approval from any of the 27 EU-based agencies. Noting that the UK government believes that their agency should be recognised in international terms as a type-approval agency, the EESC recommends that any confusion on this point be clarified.
- 1.6 The EESC notes that this proposal will be implemented within parameters as set out in the overall negotiated cessation agreement. Therefore it recommends that this proposal is not diluted in any way.
- 1.7 The EESC notes that, within the EU, there may be changes and amendments to directives based on new technology, new information and so on. It therefore recommends that there is the necessary flexibility within agreements so that proper negotiations can take place.
- 1.8 The EESC recommends that all overall agreements on trade, as well as the cessation of membership, should take account of the huge market that exists in the EU and the UK and that all agreements should ensure that there is no negative disruption of this market.
- 1.9 The EESC strongly recommends that the necessary information systems, training and advice are well resourced and are transparently available to all sections of the industry including consumer and environmental stakeholders.
- 1.10 The EESC accepts that, while "fundamental rights" are not affected by this proposal, consumer rights will always be a concern and therefore recommends that this is acknowledged throughout implementation.

2. **General**

- 2.1 On 23 June 2016, following a referendum on EU membership, the United Kingdom of Great Britain and Northern Ireland decided to leave the European Union. This decision includes Gibraltar.
- 2.2 On 29 March 2017, the United Kingdom notified the EU of its intention to withdraw from the Union, as per Article 50 of the Treaty on European Union. Once triggered, a process of negotiation on membership cessation was established, with a view to the successful management of new complex legal arrangements.
- 2.3 Once agreed it is envisaged that from 30 March 2019, the United Kingdom will no longer be a member of the EU and will become a third country, unless the agreement proposes a new commencement date.
- 2.4 It is accepted that the withdrawal of membership will create the need to resolve numerous practical matters in relation to EU-wide regulation of goods and services. In particular, type-approval agencies based in Britain will no longer have a role as an EU regulator from the date of cessation of membership. This in turn has consequences for existing and future regulation of goods, including goods already approved.
- 2.5 However, it should be noted that the exact position of the UK in relation to the UK type-approval agency will be the subject of the overall negotiated agreement still underway.
- 2.6 Among the many implications will be the disruption of the various product supply chains, which are finely tuned to deliver goods in a cost-efficient and timely manner across all Member States, including Great Britain.
- 2.7 The proposal is also keenly aware of the need to maintain all quality standards as well as ensuring that environmental and consumer-related standards are not diluted.
- 2.8 This proposal could easily act as a template for other similar agreements and in that context it is essential that it has the support of all stakeholders and that of the wider public.
- 2.9 This proposal states that there are no consequences for the protection of fundamental rights. However, the EESC would note that changes in regulation structures affecting goods will always have implications for consumers.
- 2.10 This opinion will concentrate on the situation pertaining to the type-approval system as applied to motor engines, vehicles involved in the transport of goods, as well as engines for use in non-mobile machinery.

3. **Gist of the Commission Proposal**

- 3.1 The Commission proposal seeks to deal with the EU legislative framework governing the type-approval system as it applies to a number of products, which will no longer apply to the United Kingdom on cessation of membership of the Union.
- 3.2 Specifically, and subject to transitional arrangements that may be made in the cessation agreement, the Commission proposal names the following legislation as being affected:
- Directive 2007/46/EC concerning the type-approval of motor vehicles and trailers (to be replaced by a Regulation which will be applicable as from 1 September 2020);
 - Regulation (EU) No 168/2013 concerning the type-approval of two- and three-wheeled vehicles and quadricycles;
 - Regulation (EU) No 167/2013 concerning the type-approval of agricultural and forestry vehicles; and
 - Regulation (EU) 2016/1628 concerning the type-approval of engines for use in non-road mobile machinery.
- 3.3 The proposal also makes it clear that the existing UK type-approval authority will no longer be able to continue as such under EU legislation. Therefore, in order to achieve continued compliance with EU legislation and to maintain access to European markets, manufacturers who obtained approvals in the UK will need new approvals from any of the EU 27 type-approval authorities. This includes products already in production.
- 3.4 While there are considerable implications for the future role of the UK type-approval authority, there are serious concerns for the future of vehicle manufacturing in the UK and conversely within the EU. These concerns centre mainly on the legal uncertainty of UK type-approvals and dilution of one of the main principles of regulation, which is the maintenance of regulatory consistency across all of the European Union.
- 3.5 The proposal aims to address these issues by the temporary modification of existing rules, so that manufacturers affected can apply to any of the EU-27 for approval with the minimum of inconvenience. Its main points are that it:
- Explicitly allows concerned manufacturers to apply to an EU-27 type-approval authority for new approvals for existing types;
 - Allows that tests underpinning the UK type-approvals do not have to be repeated because the technical service was not designated and notified by the EU-27 type-approval authority before;
 - Provides that such approvals may be granted if the requirements for new vehicles, systems, components and separate technical units are met rather than those for new types;
 - Proposes to help identify new type-approval authorities for those products already on the market prior to the withdrawal, to avoid that no authority would be in charge of carrying out in-service conformity checks or issuing a possible future recall.

3.6 The Commission proposal acknowledges the need to protect consumers in terms of vehicle safety and maintenance of environmental standards.

3.7 The proposal makes clear that the work of type-approval authorities does not end with the production or placing on the market of a vehicle, system, component or a separate technical unit, but extends over several years after the placing on the market of those products.

4. Observations

4.1 Car manufacturers require fresh certificates for new models, which are released roughly every seven years, but also for significant design or engine alterations which can happen more frequently. This clearly magnifies the urgency of ensuring that, following Brexit, there is a smooth realignment of the regulatory mechanisms required for their production.

4.2 Around 56% of UK vehicle exports go to Europe; only about 7% of European vehicle exports come to the UK. However, data measuring market functions as applied to the supply of spare parts would suggest a more complex set of arrangements which would require a smooth regulatory regime.

4.3 The EESC notes that despite the publication of this proposal, its effect cannot be assessed due to the huge uncertainty surrounding the current negotiations between the EU and UK.

4.4 The EESC believes that the proposal is more suited to the successful negotiation of an agreement between Britain and the EU whereby there is sufficient agreement to implement measures which allow trading to occur in some form within a customs union and/or a single market.

4.5 The EESC agrees with the following statement as published by the House of Commons (fifth report of session 2017-2019, entitled "The impact of Brexit on the automotive sector"): "It is difficult to see how it would make economic sense for multinational volume manufacturers – the bulk of the UK automotive sector – to base production in the UK in a no deal or WTO tariff scenario." Therefore, in the event of a "no deal" scenario, the proposal will need review in terms that will ensure that is robust enough to be prepared for such a scenario.

4.6 The exact situation concerning the future role of the UK type-approval body is as yet not agreed by the UK and the European Union. The EESC believes that resolution of this issue is essential if the new regulatory regime is to be successful.

5. Challenges

5.1 The EESC welcomes the proposal's objectives, in particular, the intention to reduce costs to the industry, in terms of border delays and unnecessary bureaucracy, while ensuring that the highest standard applies. However, the EESC believes that achievement of these objectives is an enormous challenge, bearing in mind that a whole new regulatory system must now be devised.

- 5.2 However, the EESC also notes that such a regime will unavoidably contribute to higher costs, mainly because Britain will become a non-member and like other non-members there will be, of necessity, different arrangements.
- 5.3 Matters covered under regulations such as environment, consumer rights, quality of products and so on are often subject to new or changed internal EU laws and ongoing directives. The EESC believes that both the EU and the UK will need to ensure that the regulatory regime agreement will be flexible enough to manage this, so that the least disruption occurs.
- 5.4 Within the EU the process for manufacture and distribution of vehicles has developed in a highly integrated manner. There are many complex and efficient supply chains in operation, which in the view of all experts and the EESC will change significantly following the UK's cessation of EU membership. It is also the view of the EESC that such disruption will reduce the efficiency of these systems.
- 5.5 Because of the high numbers of vehicles manufactured in Britain and exported within the EU, the EESC is particularly concerned that any exclusion of the UK from this market will negatively affect overall competitiveness, which in turn will increase costs to all sections of the economy as well as consumers. Therefore, the Commission's proposal, which advocates that all of these interests are protected, must ensure that there is ongoing commitment to this and it must be enshrined in future agreements.
- 5.6 The complexity of proposed changes will require strong commitments by both sides to provide comprehensive information and training programmes to the industry as well as each of the type-approval agencies. This represents a considerable challenge in terms of resources and will require significant time. The time requirement will be particularly challenging given the current schedule of the UK's withdrawal as stipulated under Article 50.
- 5.7 Given the time that the negotiated agreement is taking and the time needed to conform various systems, the EESC believes that a transition period will be required beyond the March 2019 cessation date.
- 5.8 Given that a favourable outcome is the continuance of the current system, governing the movement of vehicles and associated products between the UK and the EU, the EESC believes that vehicles manufactured in the UK will need to conform to EU regulation. Therefore it is noted that, unless the UK is in some way associated with the customs union or single market or both, this proposal will be extremely difficult to administer.

- 5.9 The EESC believes that the new status of the UK as a non-member will continually pose challenges to the vehicle, mobile and non-mobile regulatory regime. Therefore, an inability to speedily deal with these problems will eventually force manufacturers to change the nature of their current supply chain, which could affect the continuity of available products and have an impact on the cost to consumers.

Brussels, 19 September 2018

Luca JAHIER

The president of the European Economic and Social Committee
