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NOTE

from:	the Presidency
to	the Working Party on Technical Harmonisation (Motor Vehicles)
No. Cion prop :	12604/10 MI 265 CODEC 728 ENT 97 ENV 516 AGRI 278
No. prev. doc. :	9675/12 MI 312 CODEC 1232 ENT 122 ENV 342 AGRI 288
Subject:	Proposal for a Regulation (EU) No .../... of the European Parliament and of the Council on the approval of agricultural or forestry vehicles.

Delegations will find attached the text of this proposal as it now stands following its examination on 23 February, 5 and 15 March, 11 April and 14 May 2012. It also contains drafting proposals from the Presidency to address some of the concerns raised by delegations and also proposals coming from the IMCO Committee.

It is understood that for the time being there is a general reservation from all delegations. Remarks and proposals made to the L-category text which are valid also for the T-category text have not been included in the footnotes of the present document for reasons of simplicity, nevertheless they will be fully taken into account once a decision has been taken on the relevant parts of the L-category text.

Additions to the text are indicated by **bold and underlining**.

Deletions are indicated by ~~striketrough~~.

Matters under further examination are indicated by [brackets].

Proposal for a

EUROPEAN PARLIAMENT AND COUNCIL REGULATION

**Regulation (EU) No .../2010~~2~~ of the European Parliament and of the Council on the approval
and market surveillance of agricultural or and forestry vehicles^{1 2}**

(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,

Having regard to the opinion of the European Economic and Social Committee,³

After transmission of the proposal to the national Parliaments,

Acting in accordance with the ordinary legislative procedure **laid down in Article 294 of the Treaty**,

Whereas:

- (1) In order to promote the internal market, a comprehensive ~~Community~~ **Union** type-approval system for tractors, their trailers and interchangeable towed equipment was established by Directive 2003/37/EC 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~~⁴.

¹ FR, MT, UK: Parliamentary scrutiny reservations.

² General scrutiny reservation from all delegations.

³ OJ C [...], [...], p. [...]

⁴ OJ L 171, 9.7.2003, p. 1.

- (2) For the purposes of the establishment and operation of the internal market of the Union, it is appropriate to replace the approval systems of the Member States with a Union approval procedure based on the principle of total harmonisation, while at the same time taking due account of cost-benefit considerations, with special attention given to small and medium-sized enterprises.
- (3) Following the request of the European Parliament and with the aim of simplifying and accelerating the ~~procedure~~ **adoption of type-approval legislation**, a new regulatory approach has been introduced in the Union vehicle type-approval legislation according to which the legislator in the ordinary legislative procedure sets out the fundamental rules and principles only and delegates the ~~legislation of~~ **power to adopt delegated acts on** further technical details to the Commission. With regard to substantive requirements, this Regulation should therefore lay down only fundamental provisions on ~~road~~ **functional** safety, occupational safety and environmental performance and delegate to the Commission the power to lay down the technical specifications in delegated acts.
- (4) This Regulation is without prejudice to measures **at national or Union level** regarding the use of agricultural and forestry vehicles on the road, such as specific driver's licence requirements, limitations of the maximum speed or measures regulating the access to certain roads.
- (5) In order to ensure a high level of ~~road~~ **functional** safety, occupational safety and environmental protection the technical requirements and environmental standards applicable to vehicles, systems, components and separate technical units with regard to type-approval should be harmonised.

- (6) Since the Directives 97/68/EC⁵ and 2006/42/EC⁶ on non-road mobile machinery⁷ do not provide for harmonized requirements for ~~road~~ safety, it is appropriate to provide the option for manufacturers of mobile machinery to have their products approved in accordance with European standards for the ~~road~~ safety requirements under this Regulation; therefore, mobile machinery should be included in this Regulation on an optional basis with regard to system type-approvals for ~~road~~ safety requirements, in particular since the requirements applicable to mobile machinery outside **the scope** of this Regulation do not comprise any ~~road~~ safety aspects.
- (7) In order to simplify the type-approval legislation in line with the recommendations of the Report CARS 21: A Competitive Automotive Regulatory System for the 21st century⁸ ("CARS 21"), it is appropriate to repeal all separate Directives without reducing the level of protection. The requirements set out in those Directives should be carried over to this Regulation or its delegated acts and should be replaced, where appropriate, with references to the corresponding regulations of the United Nations Economic Commission for Europe (UNECE), as ~~incorporated into Union law in accordance with Article 4 of Council Decision 97/836/EC of 27 November 1997 with a view to accession by the European Union~~ **to which the Union has acceded as contracting party** 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~~ used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions ("Revised 1958 Agreement")⁹.

⁵ **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, 27.2.1998, p. 1)**

⁶ **Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery, and amending Directive 95/16/EC (recast)**

⁷ Cf. Directives ~~97/68/EC~~ and ~~2006/42/EC~~.

⁸ COM(2007)22 final.

⁹ OJ L 346, 17.12.1997, p.78.

To reduce the administrative burden of the type-approval process, ~~it is appropriate to allow~~ vehicle manufactures **should be allowed** to type-approve in accordance with this Regulation, where appropriate, directly by means of obtaining approval to the relevant UNECE regulations ~~as listed~~ **referred to** in Annex I **or the delegated acts adopted under this Regulation.**

- (8) Consequently, UNECE regulations **and the amendments thereto** to which the Union accedes, in application of Decision 97/836/EC, ~~and amendments to UNECE regulations to which the Union has already acceded~~ should be incorporated within the EU type-approval procedure ~~either as requirements for EU vehicle type approval, or as alternatives to existing Union law. In particular, where the Union decides that a UNECE regulation shall become part of the EU vehicle type approval requirements and replace existing EU legislation~~ **Accordingly**, the power should be delegated to the Commission to adopt the necessary adaptations to this Regulation or to adopt the necessary ~~implementing~~ **delegated** acts.
- (9) As an alternative, reference can be made in the delegated acts to Codes established by the Organisation for Economic Cooperation and Development (OECD) or to CEN/CENELEC or ISO standards which are directly available to the public.
- (10) The requirements of this Regulation are in accordance with the principles enshrined in the **Commission** Action plan entitled ‘Simplifying and improving the regulatory environment’¹⁰.
- (11) It is of particular importance that future measures proposed on the basis of this Regulation or procedures to be implemented in application of it ~~should~~ comply with these principles, which have been restated by the Commission in its Report CARS 21. In particular, for the purposes of better regulation and simplification and in order to avoid constant updating of existing EU legislation on issues of technical specifications, this Regulation should make reference to existing international standards and regulations which are available to the public without reproducing them in the EU legal framework.

¹⁰ COM(2002)278 final, 5.6.2002.

- (12) Directive 2003/37/EC in a first stage limited the mandatory application of the ECU whole vehicle type-approval procedure to the vehicle categories T1, T2 and T3 and did not provide for all requirements necessary in order to apply for EC-whole vehicle type- approval on a voluntary basis for other categories. In order to complete the internal market and to ensure that it functions properly, this Regulation should allow manufacturers to apply for EU-whole vehicle type-approval for all categories covered by this Regulation on a voluntary basis, thereby enabling them to benefit from the advantages of the internal market by means of the EU type-approval.
- (13) It is appropriate to establish the principle that vehicles must be designed, constructed and assembled so as to minimise the risk of injury to the vehicle occupants and to other road users. For this purpose, it is necessary that manufacturers ensure that vehicles comply with the relevant requirements set out in this Regulation. Those provisions should include, but not be limited to, requirements relating to vehicle structural integrity, systems to aid the driver's control of the vehicle, systems to provide the driver with visibility and information on the state of the vehicle and the surrounding area, vehicle lighting systems, vehicle occupant protection systems, the vehicle exterior and accessories, vehicle masses and dimensions and vehicle tyres.

(13a) The national authorities' obligations laid down in the market surveillance provisions of this Regulation are more specific than the corresponding provisions of Regulation (EC) 765/2008.

- (14) In order to ensure that the procedure for monitoring conformity of production, which is one of the cornerstones of the EU Community type-approval system, has been correctly implemented and functions properly, manufacturers should be regularly checked by ~~the~~ a competent authority or by an appropriately qualified technical service appointed for that purpose.

- (15) ~~In order to prevent misuse, the~~ **There should be a** simplified **type-approval** procedure for small series vehicles **which** should, **however,** be restricted to limited numbers of vehicles.; ~~it is~~ **Therefore it is** necessary to define precisely the concept of small series in terms of the number of vehicles produced.
- (16) It is important to lay down provisions for the individual approval of vehicles, in order to allow sufficient flexibility in the multi-stage approval system.
- (17) The main objective of the legislation of the Union on the approval of vehicles is to ensure that new vehicles, components and separate technical units ~~put~~ **placed** on the market provide a high level of safety and environmental protection. This aim should not be impaired by the fitting of certain parts or equipment after vehicles have been placed on the market or have entered into service. Thus, appropriate measures should be taken in order to make sure that parts or equipment which can be fitted to vehicles and which are capable of significantly impairing the functioning of systems that are essential in terms of safety or environmental protection, are subject to a prior control by an approval authority before they are ~~offered for sale~~ **placed on the market**. These measures should consist of technical provisions concerning the requirements that those parts or equipment have to comply with.
- (18) ~~Those~~ **Such** measures should only apply to a limited number of parts and equipment, the list of which should be established **by the Commission** in a delegated act after ~~having consulted~~ **it has consulted** the stakeholders. ~~Such~~ **The** measures should ensure that the parts or equipment in question do not impair the safety or environmental performance of the vehicle while at the same time preserving wherever possible competition in the aftermarket.
- (19) It is important that manufacturers supply relevant information to vehicle owners in order to prevent misuse of safety devices.

- (20) In order to allow manufacturers of components or separate technical units to apply for EU type-approval for components or separate technical units or authorisation, it is also important for these manufacturers to have access to certain information that is available only from the vehicle manufacturer, such as the technical information, including drawings, required for the development of parts for the aftermarket.
- (21) Unrestricted access to vehicle repair information, via a standardised format which can be used to retrieve the technical information, and effective competition on the market for vehicle repair and maintenance information services are necessary to improve the functioning of the internal market, particularly as regards the free movement of goods, freedom of establishment and freedom to provide services. A great proportion of such information is related to on-board diagnostic (OBD) systems and their interaction with other vehicle systems. It is appropriate to lay down technical specifications that the websites of the manufacturers should follow, along with targeted measures to ensure reasonable access for small and medium-sized enterprises.

(21a) Vehicle manufacturers may also fulfil their obligations to grant access to repair and maintenance information on the communication protocols between tractors and towed or mounted equipment, as defined in ISO 1183, by providing on the manufacturer's website a link to a website set up jointly by several manufactureres or a consortium of manufacturers.

- (22) The Member States should lay down rules on penalties applicable to infringements of the provisions of this Regulation and ensure that they are implemented. Those penalties should be effective, proportionate and dissuasive.
- (23) ~~The Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty in respect of road safety (including braking), occupational safety and environmental performance, testing, access to repair and maintenance information and appointment and specific authorized tasks of technical services, in order to supplement or amend certain non-essential elements of this Regulation.~~

In order to achieve uniform implementation of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of detailed arrangements for approval and market surveillance of all new vehicles, as well as for placing on the market or entry into service of systems, components or separate technical units. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.

The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.

- (24) ~~Some of the subjects covered by this Regulation require uniform conditions for the implementation in the Member States, in order to ensure the proper functioning of the internal market by facilitating mutual recognition of administrative decisions taken in the different Member States and the acceptance of documents issued by vehicle manufacturers, thus allowing stakeholders to benefit from the internal market more easily. The Commission should therefore be empowered to adopt implementing acts in accordance with Article 291 of the Treaty in order to lay down uniform conditions for the implementation of this Regulation with regard to the following items: list of information to be provided when applying for type-approval, type-approval procedures, templates for manufacturers' additional plates, EU type-approval certificates, list of type-approvals issued, numbering system for EU type-approvals and procedures to ensure conformity of production.~~ **In order to ensure uniform conditions for the implementation of this Regulation, implementing power should be conferred on the Commission. The implementing powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers¹¹.**

¹¹ **OJ L 55, 28.2.2011, p. 13.**

- ~~(25) According to Article 291 of the TFEU, rules and general principles concerning mechanisms for the control by Member States of the Commission's exercise of its implementing powers shall be laid down in advance by a Regulation adopted in accordance with the ordinary legislative procedure. Pending the adoption of that new Regulation, Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission continues to apply, with the exception of the regulatory procedure with scrutiny, which is not applicable.~~
- (26) As a consequence of the application of the new regulatory system set in place by this Regulation, ~~Directive 2003/37/EC~~ and the following Directives should be repealed: Directive 74/347/EEC of the Council¹² 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, Directive 76/432/EEC of the Council¹³ of 6 April 1976 on the approximation of the laws of the Member States relating to the braking devices of wheeled agricultural or forestry tractors, Directive 76/763/EEC of the Council¹⁴ of 27 July 1976 on the approximation of the laws of the Member States relating to passenger seats for wheeled agricultural or forestry tractors, Directive 77/537/EEC of the Council¹⁵ of 28 June 1977 on the approximation of the laws of the Member States relating to the measures to be taken against the emission of pollutants from diesel engines for use in wheeled agricultural or forestry tractors, Directive 78/764/EEC of the Council¹⁶ of 25 July 1978 on the approximation of the laws of the Member States relating to the driver's seat on wheeled agricultural or forestry tractors, Directive 80/720/EEC of the Council¹⁷ of 24 June 1980 on the approximation of the laws of the Member States relating to the operating space, access to the driving position and the doors and windows of wheeled agricultural or forestry tractors,

¹² OJ L 191 of 15.07.1974, p. 5.

¹³ OJ L 122 of 8.05.1976, p. 1.

¹⁴ OJ L 262 of 27.09.1976, p. 135.

¹⁵ OJ L 220 of 29.08.1977, p. 38.

¹⁶ OJ L 255 of 18.09.1978, p. 1.

¹⁷ OJ L 194 of 28.07.1980, p. 1.

Directive 86/297/EEC of the Council¹⁸, of 26 May 1986 on the approximation of the laws of the Member States relating to the power take-offs of wheeled agricultural and forestry tractors and their protection, Directive 86/298/EEC of the Council¹⁹ of 26 May 1986 on rear-mounted roll-over protection structures of narrow-track wheeled agricultural and forestry tractors, Directive 86/415/EEC of the Council²⁰ of 24 July 1986 on the installation, location, operation and identification of the controls of wheeled agricultural or forestry tractors, Directive 87/402/EEC of the Council²¹ of 25 June 1987 on roll-over protection structures mounted in front of the driver's seat on narrow-track wheeled agricultural and forestry tractors, Directive 2000/25/EEC of the European Parliament and the Council²² of 22 May 2000 on action to be taken against the emission of gaseous and particulate pollutants by engines intended to power agricultural or forestry tractors and amending 74/150/EEC, **Directive 2003/37/EC**, Directive 2009/57/EC of the European Parliament and the Council²³ of 13 July 2009 on the approximation of the laws of the Member States relating to the roll-over protection structures of wheeled agricultural or forestry tractors, Directive 2009/58/EC of the European Parliament and the Council²⁴ of 13 July 2009 on the approximation of the laws of the Member States relating to the coupling device and the reverse of wheeled agricultural or forestry tractors, Directive 2009/59/EC of the European Parliament and the Council²⁵ of 13 July 2009 on the approximation of the laws of the Member States relating to rear-view mirrors for wheeled agricultural of forestry tractors, Directive 2009/60/EC of the European Parliament and the Council²⁶ of 13 July 2009 on the approximation of the laws of the Member States relating to the maximum design speed of and load platforms for wheeled agricultural or forestry tractors,

¹⁸ OJ L 186 of 8.07.1986, p. 19.

¹⁹ OJ L 186 of 8.07.1986, p. 26.

²⁰ OJ L 240 of 26.08.1986, p. 1.

²¹ OJ L 220 of 8.08.1987, p. 1.

²² OJ L 173 of 12.07.2000, p. 1.

²³ OJ L 261 of 3.10.2009, p. 1.

²⁴ OJ L 198 of 30.7.2009, p. 4.

²⁵ OJ L 198 of 30.7.2009, p. 9.

²⁶ OJ L 198 of 30.7.2009, p. 15.

Directive 2009/61/EC of the European Parliament and the Council²⁷ of 17 October 1978 on the approximation of the laws of the Member States relating to the installation of lighting and light-signalling devices on wheeled agricultural and forestry tractors, Directive 2009/63/EC of the European Parliament and the Council²⁸ of 13 July 2009 on the approximation of the laws of the Member States relating to certain parts and characteristics of wheeled agricultural or forestry tractors, Directive 2009/64/EC of the European Parliament and the Council²⁹ of 13 July 2009 on the suppression of radio interference produced by agricultural or forestry tractors (electromagnetic compatibility), Directive 2009/66/EC of the European Parliament and the Council³⁰ of 13 July 2009 on the approximation of the laws of the Member States relating to the steering equipment of wheeled agricultural or forestry tractors, Directive 2009/68/EC of the European Parliament and the Council³¹ of 13 July 2009 on the approximation of the laws of the Member States relating to the component type-approval of lighting and light-signalling devices on wheeled agricultural or forestry tractors, Directive 2009/75/EC of the European Parliament and the Council³² of 13 July 2009 on the approximation of the laws of the Member States relating to the roll-over protection structures of wheeled agricultural or forestry tractors (static testing), Directive 2009/76/EC of the European Parliament and the Council³³ of 13 July 2009 on the approximation of the laws of the Member States relating to the driver-perceived noise level of wheeled agricultural or forestry tractors, Directive 2009/144/EC of the European Parliament and the Council³⁴ of 30 November 2009 on the approximation of the laws of the Member States relating to certain components and characteristics of wheeled agricultural or forestry tractors (dimensions and towable masses etc).

- (27) It is important for all stakeholders to establish a clear relation between this Regulation and Directive 2006/42/EC on the safety of machinery, in order to clearly establish which requirements a specific product needs to fulfil.

²⁷ OJ L 203 of 5.8.2009, p. 19.

²⁸ OJ L 214 of 19.8.2009, p. 23.

²⁹ OJ L 216 of 20.8.2009, p. 1.

³⁰ OJ L 201 of 1.8.2009, p. 11.

³¹ OJ L 203 of 5.8.2009, p. 52.

³² OJ L 261 of 3.10.2009, p. 40.

³³ OJ L 201 of 1.8.2009, p. 18.

³⁴ OJ L 27 of 30.1.2010, p.33.

(28) Since the objective of this Regulation, namely to lay down harmonised rules on the administrative and technical requirements for the approval and market market surveillance of agricultural and forestry vehicles, cannot be sufficiently achieved by the Member States acting alone, and can therefore, 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 that objective,

HAVE ADOPTED THIS REGULATION :

CHAPTER I

SUBJECT MATTER, SCOPE AND DEFINITIONS

Article 1

Subject matter

- 1.** This Regulation establishes the administrative and technical requirements for the ~~EU-type~~ approval of all new vehicles, **systems, components and separate technical units** referred to in Article 2. **This Regulation also makes provision for the individual approval of vehicles at national level.**
- 2.** This Regulation also establishes the requirements for the ~~sale and entry into service~~ **market surveillance** of parts and equipment **vehicles, systems, components and separate technical units** ~~intended for vehicles approved~~ **subject to approval** in accordance with this Regulation and of the prohibition of such sale and entry into service. **In addition, it also establishes the requirements for the market surveillance of parts and equipment for such vehicles.** ³⁵
- 3.** This Regulation is without prejudice to the application of ~~the relevant~~ legislation of the ~~Union~~ on road safety.

³⁵ NL: this Article should also contain a reference to the authorisation procedure as provided for in Art. 39.

Article 2

Scope

1. This Regulation shall apply applies to the ~~type approval and individual approval of~~ **agricultural and forestry** vehicles, **as described in Article 4**, designed and constructed in one or more stages, and ~~of~~ **to** systems, components and separate technical units, **as well as parts and equipment**, designed and constructed for such vehicles.

This Regulation ~~shall apply~~ applies to the following vehicles:

- (a) tractors (categories T and C),
 - (b) trailers (category R),
 - (c) interchangeable towed equipment (category S), and
 - ~~(d) mobile machinery (category U).~~
2. This Regulation shall not apply to interchangeable machinery that is fully raised from the ground³⁶ when the vehicle to which it is attached is in use on a road.
 3. For the following vehicles, the manufacturer may choose whether to apply for ~~type approval under this Regulation or for national type approval~~ **whether to comply with the relevant national requirements**³⁷:
 - ~~(a) mobile machinery;~~
 - (b) trailers (**category R**) and **interchangeable** towed ~~implements, categories R and S~~ **equipment (category S)**;

³⁶ IT: add "or that cannot articulate around a vertical axis" (MD T28/11). AT (MD T32/11), FI, UK: support.

³⁷ BE: delete "or for national type approval **whether to comply with the relevant national regulatory requirements**". COM: it is up to the manufacturer to choose between EU or national type approval. In this latter case, there is the choice of Member States to accept the national type approval of other Member States or refuse (and ask for national or EU requirements). There is a margin for national authorities to intervene if they deem it necessary. FR: this has to be optional.

~~(e) in case of individual approval, prototypes of vehicles used under the responsibility of a manufacturer to perform a specific test programme and which were specifically designed and constructed for that purpose.~~³⁸

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Article 3

Definitions

For the purposes of this Regulation and of the acts listed in Annex I, except as otherwise provided therein, **the following definitions shall apply:**

1. "type-approval" means the procedure whereby an approval authority certifies that a type of vehicle, system, component or separate technical unit satisfies the relevant administrative provisions and technical requirements;
2. "whole vehicle type-approval" means a type-approval whereby an approval authority certifies that **an incomplete, a complete or completed** vehicle **type** satisfies the relevant administrative provisions and technical requirements;
3. "system type-approval" means a type-approval whereby an approval authority certifies that a system built into a vehicle of a specific type satisfies the relevant administrative provisions and technical requirements;
4. "component type-approval" means a type-approval whereby an approval authority certifies that a component independently of a vehicle satisfies the relevant administrative provisions and technical requirements;

³⁸ UK: re-instate deleted point (c) (MD T25/11).

³⁹ UK: add as paragraph 4 the following text: (WD T7/12)

"This Regulation is without prejudice to the applicability of Directive 2006/42/EC to integrated lifting or loading devices (such as telescopic booms) mounted on vehicles within the scope of this Regulation."

5. "separate technical unit type-approval" means a type-approval whereby an approval authority certifies that a separate technical unit ~~in relation to one or more specified types of vehicles~~ satisfies the relevant administrative provisions and technical requirements **in relation to one or more specified types of vehicles**;
6. "national type-approval" means a type-approval procedure laid down by the national law of a Member State, the validity of such approval being restricted to the territory of that Member State;
7. "EU type-approval" means the procedure whereby an approval authority certifies that a type of vehicle, system, component or separate technical unit satisfies the relevant administrative provisions and technical requirements of this Regulation;
8. "tractor" means any motorised, wheeled or tracked agricultural or forestry vehicle having at least two axles and a maximum design speed of not less than 6 km/h, the main function of which lies in its tractive power and which has been especially designed to pull, push, carry and actuate certain interchangeable equipment designed to perform agricultural or forestry work, or to tow agricultural or forestry trailers or equipment; it may be adapted to carry a load in the context of agricultural or forestry work and/or may be equipped with one or more passenger seats;

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9. "trailer" means any ~~towed~~ agricultural or forestry vehicle intended mainly ~~to carry loads and designed to be towed by a tractor~~ **and intended mainly to carry loads or**⁴¹ ~~for agricultural or forestry purposes and which is not designed~~ to process materials and where the ratio of the technically permissible **maximum laden** ~~gross~~ mass to the unladen mass of that vehicle is equal to or greater than 3,0;⁴²

⁴⁰ RO: could accept the introduction of a U-ATV category subject to the conditions set out in MD T1/12.

⁴¹ CZ: delete the part "or to process greater than 3,0".

⁴² IT: reservation on this definition.

10. "interchangeable towed equipment" means any vehicle used in agriculture or forestry which is designed to be towed by a tractor, changes or adds to its functions, permanently incorporates an implement or is designed to process materials, which may include a load platform designed and constructed to receive any tools and appliances needed for those purposes and to store temporarily any materials produced or needed during work and where the ratio of the technically permissible **maximum laden** gross mass to the unladen mass of that vehicle is less than 3,0;
- ~~11. "mobile machinery" means any self-propelled vehicle with the exclusion of machinery mounted on a motor vehicle chassis, which is designed and constructed specifically to perform work and which, because of its construction characteristics, is not suitable for carrying passengers or for transporting goods;~~
12. "vehicle" means any tractor, trailer, interchangeable towed equipment ~~or mobile machinery~~ as defined in points 8, 9, **and** 10 ~~and 11~~;
- ~~13. "type of vehicle" means vehicles of a particular category which do not differ in at least the essential respects specified in point 41, regardless of whether they belong to different variants and versions as defined in points 42 and 43;~~
14. "base vehicle" means any vehicle which is used at the initial stage of a multi-stage type-approval process;
15. "incomplete vehicle" means any vehicle which must undergo at least one further stage of completion in order to meet the relevant technical requirements of this Regulation;
16. "completed vehicle" means a vehicle, resulting from the process of multi-stage type-approval, which meets the relevant technical requirements of this Regulation;
17. "complete vehicle" means any vehicle which need not be completed in order to meet the relevant technical requirements of this Regulation;

18. "end-of-series vehicle" means any vehicle that is part of a stock which cannot be **made available on the market or can no longer be made available on the market**, registered or sold or entered into service owing to the entry into force of new technical requirements against which it has not been approved;⁴³
19. "system" means an assembly of devices combined to perform one or more specific functions in a vehicle and which is subject to the requirements of ~~any of the regulatory acts~~ **this Regulation or any of its delegated or implementing acts**;
20. "component" means a device subject to the requirements of ~~a regulatory act~~ **this Regulation or any of its delegated or implementing acts** and intended to be part of a vehicle, which may be type-approved independently of a vehicle ~~where the regulatory act makes express provisions for so doing~~ **in accordance with this Regulation and its delegated or implementing acts, where such acts make express provision for so doing**;
21. "separate technical unit" means a device subject to the requirements of ~~a regulatory act~~ **this Regulation or any of its delegated or implementing acts** and intended to be part of a vehicle, which may be type-approved separately but only in relation to one or more specified types of vehicle, ~~where the regulatory~~ **such** ~~acts~~ **acts** makes express provisions for so doing;
22. "original parts or equipment" means parts or equipment which are manufactured according to the specifications and production standards provided by the vehicle manufacturer for the production of parts or equipment for the assembly of the vehicle in question, including those parts or equipment which are manufactured on the same production line as these parts, or equipment and, based on a rebuttable presumption, parts or equipment for which the manufacturer certifies that the parts or equipment match the quality of the components used for the assembly of the vehicle in question and have been manufactured according to the specifications and production standards of the vehicle manufacturer;

⁴³ AT, DE: preference for the original Commission text, but with deletion of "or sold".

22a. "parts" means goods used for the assembly of a vehicle as well as spare parts;

22b. "spare parts" means goods which are to be installed in or on a vehicle so as to replace original parts of that vehicle, including goods such as lubricants which are necessary for the use of a vehicle, with the exception of fuel;

22c. "equipment" means any goods other than parts which can be added to or installed on a vehicle.

22d. "functional safety" means the absence of unacceptable risk of physical injury or of damage to the health of people or to properties owing to hazards caused by mal-functional behaviour of mechanical, hydraulic, pneumatic, electrical or electronic systems, components or separate technical units; ⁴⁴

23. "manufacturer"⁴⁵ means ~~the~~ **any natural or legal** person ~~or body~~ who is responsible to the approval authority for all aspects of the type-approval or authorisation process, ~~and~~ for ensuring conformity of production **and who is also responsible for market surveillance concerns for their produced vehicles, systems, components and separate technical units,** whether or not the **natural or legal** person ~~or body~~ is directly involved in all stages of the construction of the vehicle, system, component or separate technical unit which is the subject of the approval process;

24. "manufacturer's representative" means any natural or legal person established in the Union who is duly appointed by the manufacturer to represent ~~him~~ **the manufacturer** before the approval authority and to act on ~~his~~ **the manufacturer's** behalf in matters covered by this Regulation;

⁴⁴ BG: scrutiny reservation on points 22a to 22d.

⁴⁵ RO: modify this definition as follows : (MD T26/11)

‘manufacturer’ shall mean any natural or legal person who whether or not directly involved in all stages of the design and construction of the vehicle, system, component or separate technical units which are subject of the approval process, is responsible to the approval authority for all aspects of the type-approval or authorisation process, for ensuring conformity of production and who is also responsible for market surveillance concerns for their produced vehicles, systems, components and separate technical units;

25. "approval authority" means the authority of a Member State established or appointed by the Member State and notified to the Commission by the Member State ~~in accordance with Article 5~~ with competence for all aspects of the approval of a type of vehicle, system, component or separate technical unit ~~or of the individual approval of a vehicle~~, for the authorisation process, for issuing and, if appropriate, withdrawing **or refusing** approval certificates, for acting as the contact point for the approval authorities of other Member States, for designating the technical services and for ensuring that the manufacturer meets his obligations regarding the conformity of production, **or of the individual approval of a vehicle**;
26. "technical service" means an organisation or body designated by the approval authority of a Member State as a testing laboratory to carry out tests, or as a conformity assessment body to carry out the initial assessment and other tests or inspections, on behalf of the approval authority, **it being possible for the approval authority itself to carry out those functions**;
27. "self-testing" means the performance of tests in ~~his~~ **its** own facilities, the registration of the test results and the submission of a report, including conclusions, to the approval authority by a manufacturer who has been designated as technical service in order to assess the compliance of certain requirements;
28. "virtual testing method" means computer simulations including calculations ~~which to~~ **to** demonstrate whether a vehicle, a system, a component or a separate technical unit fulfils the technical requirements of a **delegated act referred to in Article 18(5)** ~~regulatory act~~ without requiring the use of a physical vehicle, system, component or separate technical unit;
29. "type-approval certificate" means the document whereby the approval authority officially certifies that a type of vehicle, system, component or separate technical unit is approved;
30. "EU type-approval certificate" means the certificate based on the ~~model~~ **template** set out in **the implementing act adopted under** this Regulation or the communication form set out in the relevant ~~equivalent~~ UNECE regulations or OECD Codes listed in Annex I **referred to in this Regulation or in its delegated acts** ;

31. "individual approval certificate" means the document whereby the approval authority officially certifies that a particular vehicle is approved;
32. "certificate of conformity" means the document, ~~based on the model set out in this Regulation~~ and issued by the manufacturer, which certifies that ~~at the time of its production a~~ **the produced** vehicle ~~belonging to the series of the type~~ **conforms to the** approved **vehicle type** ~~in accordance with this Regulation corresponded to the type approved in the type approval and complied with all regulatory requirements listed therein;~~
33. "on-board diagnostic system" or "OBD system" means a system ~~for emission control~~ which has the capability of identifying the likely area of malfunction by means of fault codes stored in a computer memory;
34. "vehicle repair and maintenance information" means all information required for diagnosis, servicing, inspection, periodic monitoring, repair, re-programming or re-initialising of the vehicle and which the manufacturers provide for their authorised dealers and repairers, including all subsequent amendments and supplements to such information.
35. "independent operator" means undertakings other than authorised dealers and repairers which are directly or indirectly involved in the repair and maintenance of ~~motor~~ vehicles, in particular repairers, manufacturers or distributors of repair equipment, tools or spare parts, publishers of technical information, automobile clubs, roadside assistance operators, operators offering inspection and testing services, operators offering training for installers, manufacturers and repairers of equipment for alternative fuel vehicles;

36. ~~"new vehicle" means a vehicle which:~~⁴⁶

~~— (a) has never been previously registered previously, or~~

~~— (b) has been registered for less than six months at the time of application for an individual approval.~~

37. "registration" means ~~that the vehicle, upon identification, has obtained the administrative authorisation for the entry into service in~~ **including for road traffic of a vehicle, involving the identification of the latter and the issuing to it of a serial number to be known as the registration number,** be it permanently, temporarily or for a short period of time ~~and that a registration number has been issued;~~

38. "placing on the market" means making available a vehicle, **system⁴⁷, component, separate technical unit, part or equipment** for the first time in the Union ~~with a view to distribution or use, whether for reward or free of charge;~~

39. "entry into service" means the first use, for its intended purpose, in the Union, of a vehicle, **system, component, separate technical unit, part or equipment** covered by this Regulation;

40. "sale" means any sale, ~~from vehicle manufacturer to retailer or the sale to the end user;~~

40a. "making available on the market" means any supply of a vehicle, system, component, separate technical unit, part or equipment for distribution or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;

41.⁴⁸ "vehicle type" means **a group of** vehicles, **including variants** of the same category that do not differ in ~~respect of~~ at least the following essential aspects **respects** :

⁴⁶ BG, SE: keep this definition, it is necessary. BE, ES, IT, PL: support.
AT: this is already covered in Art. 29(5); if we keep this definition we need to redraft it. FR, NL: support.

DE: what is the use of point (b) in this definition?

⁴⁷ BG: delete "system". Placing on the market does not relate to systems.

⁴⁸ UK: scrutiny reservation.

- **category;**
- manufacturer;
- ~~manufacturer's~~ type designation **given by the manufacturer;**
- essential construction and design characteristics;
- backbone chassis/chassis with side members/articulated chassis (obvious and fundamental differences);
- for category T: axles (number) or, for category C: axles/tracks (number);
- **in the case of multi-stage built vehicles, the manufacturer and the type of the previous stage vehicle;**

and, only for tractors **for use in agriculture or forestry;**

— ~~engine (internal combustion/electric/hybrid);;~~

42.⁴⁹ "variant" means vehicles of the same type which do not differ in respect of at least the following aspects **respects** :

(a) For tractors:

- **body structural concept or type of body work;**

- **stage of completion;**

- engine (**internal combustion / electric / hybrid-electric**);
- operating principle;
- number and arrangement of cylinders;
- power difference of no more than 30 % (the highest power being no more than 1,3 times the lowest power);
- cylinder capacity difference of no more than 20 % (the highest figure being no more than 1,2 times the lowest figure);
- powered axles (number, position, interconnection);
- steered axles (number and position);
- maximum laden mass differing by no more than 10 %;
- transmission (type);
- rollover protection structure;
- braked axles (number);

(b) For trailers or towed equipment:

- steering axles (number, position, interconnection);
- maximum laden mass differing by no more than 10 %;

⁴⁹ UK: scrutiny reservation. RO: has submitted an alternative text for paragraph 42 (see MD T15/11).

- braked axles (number);

42a. "hybrid electric vehicle" means a vehicle, including vehicles which draw energy from a consumable fuel only for the purpose of re-charging the electrical energy/power storage device, that, for the purpose of mechanical propulsion, draws energy from both of the following on-vehicle sources of stored energy/power:

(a) a consumable fuel,

(b) a battery, capacitor, flywheel / generator or other electrical energy or power storage device;

42b. "pure electric vehicle" means a vehicle powered by a system consisting of one or more electric energy storage devices, one or more electric power conditioning devices and one or more electric machines that convert stored electric energy to mechanical energy delivered at the wheels for propulsion of the vehicle;

43.⁵⁰ "version of a variant" means⁵¹ vehicles which consist of a combination of items shown in the information package;

44. "importer" means any natural or legal person established within the Union who places on the market a vehicle, system,⁵² component, separate technical unit, part or equipment from a third country on the Union market;

45. "distributor" means any natural or legal person in the supply chain, other than the manufacturer or the importer, who makes available a vehicle, system, component, separate technical unit, part or equipment on the Union market;

46. "economic operator" means the manufacturer, the manufacturer's representative, the importer or the distributor;

47. "market surveillance" means the activities carried out and measures taken by public national authorities to ensure that vehicles, systems, components or separate technical units made available on the Union market comply with the requirements set out in the relevant Union harmonisation legislation and do not endanger health, safety or any other aspect of public interest protection;

⁵⁰ UK: scrutiny reservation. RO: has submitted an alternative text for paragraph 43 (see MD T15/11).

⁵¹ RO: add "options for a version with a variant of".

⁵² BG: reminder of its reservation on the inclusion of "system".

48. "market surveillance authority" means an authority of a Member State responsible for carrying out market surveillance on its territory;

49. "national authority" means an approval authority responsible for approval of vehicles, systems, components or separate technical units covered by this Regulation, or any other authority involved in and responsible for market surveillance, border control or registration in a Member State in respect of vehicles, systems, components, separate technical units, parts or equipment; ⁵³

⁵³ BG: scrutiny reservation.

*Article 4*⁵⁴
*Vehicle ~~C~~categories*⁵⁵

For the purposes of this Regulation the following vehicle categories **shall** apply:

1. "category T" comprises all wheeled tractors;⁵⁶
2. "category T1" comprises wheeled tractors with a maximum design speed of not more than 40 km/h, with the closest axle to the driver⁵⁷ having a minimum track width of not less than 1 150 mm, with an unladen⁵⁸ mass, in running order, of more than 600 kg, and with a ground clearance of not more than 1 000 mm;
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 and with a maximum design speed of not more than 40 km/h, unless the height of the centre of gravity of the tractor (measured in relation to the ground) divided by the average minimum track for each axle exceeds 0,90, in which case the maximum design speed is restricted to 30 km/h;
4. "category T3" comprises wheeled tractors with a maximum design speed of not more than 40 km/h, and with an unladen mass, in running order, of not more than 600 kg;
5. "category T4" comprises special purpose wheeled tractors with a maximum design speed of not more than 40 km/h;

⁵⁴ DE: scrutiny reservation on this Article.

⁵⁵ FI: on the possible inclusion on ATVs and SbS-vehicles, see remarks in MD T29/11.

⁵⁶ UK, supported by DE: add here the following text : (MD T25/11)
"each tractor category described in point 2[, 4 and 8] also includes an 'a' or 'b' index according to their design speed :

- a) 'a' for tractors with a maximum design speed below or equal to 40 km/h,

- b) 'b' for tractors with a maximum design speed above 40 km/h;"

⁵⁷ For reversible driver's position tractors (reversible seat and steering wheel), the closest axle to the driver to be considered must be the one fitted with the biggest diameter tyres.

⁵⁸ RO: delete "unladen" in definitions of categories T1 and T3 (MD T1/12).

6. "category T4.1" (high-clearance tractors) comprises tractors designed for working with high-growing crops, such as vines. They feature a raised chassis or section of chassis, enabling them to advance in parallel with the crop with left and right wheels on either side of one or more rows of the crop. They are intended for carrying or operating tools which may be fitted at the front, between the axles, at the rear or on a platform. When the tractor is in working position the ground clearance perpendicular to the crop rows exceeds 1 000 mm. Where the height of the centre of gravity of the tractor, measured in relation to the ground, using the tyres normally fitted, divided by the average minimum track of all of the axles exceeds 0,90, the maximum design speed shall not exceed 30 km/h;
7. "category T4.2" (extra-wide tractors) comprises tractors characterised by their large dimensions, primarily intended for working large areas of farmland;
8. "category T4.3" (low-clearance tractors) comprises four-wheel drive tractors whose interchangeable equipment is intended for agricultural or forestry use and which are characterised by a supporting frame, equipped with one or more power take-offs, having a technically permissible mass no greater than 10 tonnes, for which the ratio of this mass to the maximum unladen mass in running order is less than 2,5 and having the centre of gravity, ~~{see former footnote 38}~~ measured in relation to the ground using the tyres normally fitted, of less than 850 mm;
9. ["category T5"⁵⁹ comprises wheeled tractors with a maximum design speed of more than 40 km/h;]⁶⁰

⁵⁹ FI: proposes a new definition : (MD T31/11)

"Category T5: wheeled tractors with a maximum design speed of more than 40 km/h, with the closest axle to the driver (1) 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."

(1) For reversible driver's position tractors (reversible seat and steering wheel), the closest axle to the driver to be considered must be the one fitted with the biggest diameter tyres.

⁶⁰ UK: delete this paragraph, category T5 should be subcategory to T1.

DK, ES, FI, IE, SE: in favour of keeping it.

10. "category C" comprises track-laying tractors propelled by endless tracks or by a combination of wheels and endless tracks, with subcategories defined by analogy with category T⁶¹;
11. "category R" comprises trailers; each trailer category described in points 12 to 15 ~~also includes~~ **is complemented at the end by** an 'a' or 'b' index, according to its design speed:
 - (a) 'a' for trailers with a maximum design speed below or equal to 40 km/h,
 - (b) 'b' for trailers with a maximum design speed above 40 km/h;
12. "category R1" comprises trailers, the sum of the technically permissible masses per axle of which does not exceed 1 500 kg;
13. "category R2" comprises trailers, the sum of the technically permissible masses per axle of which exceeds 1 500 kg but does not exceed 3 500 kg;
14. "category R3" comprises trailers, the sum of the technically permissible masses per axle of which exceeds 3 500 kg but does not exceed 21 000 kg;
15. "category R4" comprises trailers, the sum of the technically permissible masses per axle of which exceeds 21 000 kg;
16. "category S" comprises interchangeable towed equipment.

Each category of interchangeable towed equipment ~~includes~~ **is complemented at the end by** an 'a' or 'b' index, according to its design speed:

- 'a' for interchangeable towed equipment with a maximum design speed below or equal to 40 km/h,
- 'b' for interchangeable towed equipment with a maximum design speed above 40 km/h;

⁶¹ UK: insert here ", with the exception that index 'b' is not applicable as all tractors in category C shall have a maximum design speed not greater than 40 km/h" (MDs T 23/11 and T25/11).

17. "category S1" comprises interchangeable towed equipment, the sum of the technically permissible masses per axle of which does not exceed 3 500 kg;
18. "category S2" comprises interchangeable towed equipment, the sum of the technically permissible masses per axle of which exceeds 3 500 kg;
- ~~19. "category U" comprises machinery as defined in Directive 2006/42/EC, which is self-propelled and intended for use in agriculture or forestry.~~

CHAPTER II

GENERAL OBLIGATIONS ⁶²

Article 5

Obligations of Member States *National authorities*

1. Member States shall establish ~~and~~ **or** appoint the ~~national~~ **approval** authorities competent in matters concerning approval **and the market surveillance authorities competent in matters concerning market surveillance in accordance with this Regulation. Member States shall** and notify to the Commission ~~such~~ **of the** establishment and appointment **of such authorities** ~~in accordance with Article 53.~~

The notification ~~act~~ of the approval **and market surveillance** authorities shall include their name, address, including electronic address, and area of responsibility. **The Commission shall publish on its website a list and details of the approval authorities.**

- ~~2. Approval authorities shall ensure that manufacturers applying for approval comply with their obligations under this Regulation.~~
- ~~3. Approval authorities shall approve only such vehicles, systems, components or separate technical units as satisfy the requirements of this Regulation.~~
4. ~~Approval authorities~~ **Member States** shall register ~~or~~ permit the sale **placing on the market, registration** or entry into service only of such vehicles, components and separate technical units as **that** satisfy the requirements of this Regulation.⁶³

⁶² BG, UK: scrutiny reservation.

⁶³ DE: non-type-approved vehicles can be sold but not made available/placed on the market. However, the sale would be authorised (with use restricted to non-public places). DE: is "placing on the market" correct here, does it cover also sales between two constructors?

4a. They Member States shall not prohibit, restrict or impede the placing on the market, registration, ~~sale, or~~ entry into service ~~or circulation on the road~~ of vehicles, systems, components or separate technical units, on grounds related to aspects of their construction and functioning covered by this Regulation, if they satisfy its requirements.^{64 65}

4b. Member States shall organise and carry out market surveillance and controls of vehicles, systems, components or separate technical units being placed on the Union market in accordance with Chapter III of Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products.⁶⁶

Article 5a

Obligations of approval authorities

- 1.** Approval authorities shall ensure that manufacturers applying for type-approval comply with their obligations under this Regulation.
- 2.** Approval authorities shall approve only such vehicles, systems, components or separate technical units that satisfy the requirements of this Regulation.

⁶⁴ AT: add at the end of this paragraph : (MD T07/10)

"Member States are empowered to prohibit the registration, sale, entry into service or circulation on the roads of such vehicles or to restrict their use to particular routes under special conditions if the vehicle dimensions exceed the limitations of Directive 96/53/EC, or the unladen mass of the individual vehicle in question exceeds the weight limitations of Directive 96/53/EC, or the distribution of the unladen mass of the individual vehicle in question on its axles exceeds the limitations of Directive 96/53/EC". CZ, UK support AT.

⁶⁵ EL: modify this paragraph as follows: (MD T20/11)

"Member States shall not prohibit, restrict or impede the placing on the market, registration or entry into service of vehicles, components or separate technical units, belonging to categories T1, T2 and T3, on grounds related to aspects of their construction and functioning covered by this Regulation, if they satisfy its requirements. For the other categories covered by this Regulation, Member States shall not prohibit, restrict or impede the placing on the market, registration or entry into service of vehicles, components or separate technical units unless there are other restrictions, such as specific driver's licence requirements, limitations of the maximum speed or measures regulating the access to certain roads, arising from national legislation."

⁶⁶ OJ L 218, 13.8.2008, p. 30.

Article 5b

~~Obligations of m~~Market surveillance authorities measures

- 1. For type-approved vehicles, systems, components and separate technical units, market surveillance authorities shall perform, on an adequate scale, appropriate documentary checks, taking into account established principles of risk assessment, complaints and other information.**

Market surveillance authorities may require economic operators to make such documentation and information available as deemed necessary for the purpose of carrying out their activities.

Where economic operators present certificates attesting conformity, market surveillance authorities shall take due account of such certificates.

- 2. For parts and equipment other than those covered in paragraph 1, Article 19(1) of Regulation (EC) No 765/2008 applies in its entirety.**

Article 6

General Obligations of manufacturers

1. **Manufacturers shall ensure that when their vehicles, systems, components or separate technical units are placed on the market or are entering into service, these are manufactured and approved in accordance with the requirements set out in this Regulation and the delegated and implementing acts adopted under this Regulation.**
2. In the case of multi-stage type-approval, each manufacturer is responsible for the approval and conformity of production of the systems, components or separate technical units added at the stage of vehicle completion handled by the manufacturer. ~~The~~ **Any** manufacturer who modifies components or systems already approved at earlier stages shall be responsible for the approval and conformity of production of ~~those~~ **the modified** components and systems.
3. ~~The Manufacturers~~ who ~~modifies~~ the incomplete vehicle in **such** a manner ~~which leads to a qualification~~ **that it qualifies** as a different category of vehicle, with the consequence that ~~the~~ legal requirements already assessed in a previous stage of approval have changed, ~~is~~ **are** also responsible for compliance with ~~those~~ **the applicable** requirements **to the category of vehicles for which the modified vehicle qualifies.**
4. For the purposes of **approval of vehicles, systems, components or separate technical units covered by** this Regulation, ~~a~~ **manufacturers** established outside the ~~Community~~ **Union** shall appoint a single representative established ~~in~~ **within** the ~~Community~~ **Union** to represent ~~him~~ **them** before the approval authority.

~~References to the manufacturer shall be understood as indicating either the manufacturer or this representative.~~

- 5. Manufacturers established outside the Union shall furthermore appoint a single representative established within the Union for the purposes of market surveillance, which may be the representative referred to in paragraph 4 or one additional representative.**⁶⁷
- ± **6. The Manufacturers is shall be responsible to the approval authority for all aspects of the approval process and for ensuring conformity of production, whether or not they manufacturer is are directly involved in all stages of the construction of a vehicle, system, component or separate technical unit.**
- 7. In accordance with the specific provisions of this Regulation and the delegated and implementing acts adopted under this Regulation, manufacturers shall ensure that procedures are in place for series production to remain in conformity with the approved type. Changes in design of a vehicle, system, component or separate technical unit or characteristics and changes in the requirements to which a vehicle, system, component or separate technical unit is declared to conform shall be adequately taken into account.**
- 8. In addition to the statutory marking and type-approval marks fixed to their vehicles, components or separate technical units in accordance with Article 25, manufacturers shall indicate their name, registered trade name or registered trade mark and the address in the European Union at which they can be contacted on their vehicles, components or separate technical units made available on the Union market or, where that is not possible for components or separate technical units, on the packaging or in a document accompanying the component or separate technical unit.**⁶⁸

⁶⁷ FR: clarify paragraphs 4 and 5: the representative in the EU should have the same responsibilities as the manufacturer. For market surveillance purposes, it would be practical to have one representative per Member state.

⁶⁸ FR: administrative burden. DE: difficult to implement for components: there might be no authorised representative. COM: see definition 38. These new provisions stem from the New Legislative Framework (Decision 768/2008) and differentiate the producer and the authorised representative. The need to establish an authorised representative in the EU exists for all non-EU manufacturers, even for components not going through the type-approval procedure but integrated in a vehicle. Link with CE marking. DE: excluded from the scope.

- 9. Manufacturers shall ensure that, while a vehicle, system, component or separate technical unit is under their responsibility, storage or transport conditions do not jeopardise its compliance with the requirements set out in this Regulation.**

Article 6a

Obligations of manufacturers concerning their products that are not in conformity or do present a serious risk

- 1. Manufacturers who suspect that their vehicle, system, component or separate technical unit that has been placed on the market or entered into service is not in conformity with this Regulation or the delegated and implementing acts adopted under this Regulation shall immediately take the corrective measures necessary to bring that vehicle, system, component or separate technical unit into conformity, to withdraw it or to recall it, as appropriate.**

The manufacturer shall immediately inform the approval authority which granted the approval giving details, in particular, of the non-compliance and of any corrective action taken.

- 2. Where the vehicle, system, component, separate technical unit, part or equipment presents a serious risk, manufacturers shall immediately inform the market surveillance and approval authorities of the Member States in which the vehicle, system, component, separate technical unit, part or equipment was made available on the market or had entered into service to that effect, giving details, in particular, of the non-conformity and any corrective measures taken.**

- 3. Manufacturers shall keep the information package referred to in Article 15(10) and in addition the vehicle manufacturer shall keep a copy of the certificates of conformity referred to in Article 24 at the disposal of the approval authorities for a period of at least 10 years after the placing on the market of the vehicle, and for a period of at least 5 years after the placing on the market for a system, component or separate technical unit.**
- 4. Manufacturers shall, following a reasoned request from a competent Member State authority, provide it that authority through the type-approval authority with a copy of the EU type-approval certificate or the authorisation referred to in Article 39(1) and (1a) demonstrating the conformity of the vehicle, system, component or separate technical unit, in a language which can be easily understood by that authority. Manufacturers shall cooperate with the Member State authority on any action taken in accordance with Article 20 of Regulation (EC) No 765/2008 to eliminate the risks⁶⁹ posed by their vehicles, systems, components or separate technical units which have been placed on the market, registered or entered into service.**

⁶⁹ DE: this questions the concept of safety in type-approval. COM: this can relate to non-type-approved components and aims at enhancing administrative cooperation.

Article 6b

Obligations of manufacturer's representatives concerning market surveillance ⁷⁰

The manufacturer's representative for market surveillance shall perform the tasks specified in the mandate received from the manufacturer. This mandate shall allow a representative to do at least the following:

- (a)⁷¹ following a reasoned request from an approval authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of production of a vehicle, system, component or separate technical unit;**
- (b) cooperate with the market surveillance or approval authorities, at their request, on any action taken to eliminate the serious risk posed by vehicles, systems, components, separate technical units, parts or equipment covered by their mandate.**

⁷⁰ DE: differentiate clearly whether the product is submitted to type-approval or not. In which case, New Legislative Framework would be an added value.

⁷¹ DE: paragraph (a) applies only to products which do not need type-approval.

Article 6c
General obligations of importers

- 1. Importers shall place on market only compliant vehicles, systems, components or separate technical units which have either received EU type-approval or which fulfil the requirements for national or individual approval, or parts or equipment entirely subject to the requirements of Regulation (EC) No 765/2008.**
- 2. Before the placing on the market of a type-approved vehicle, system, component or separate technical unit, importers shall ensure that there is an information package complying with the requirements of Article 15(10),⁷² that the vehicle, system, component or separate technical unit bears the required type-approval mark and complies with Article 6(8). In the case of a vehicle, the importer shall verify that the vehicle is accompanied by the required certificate of conformity.**
- 3. Where importers consider or have reason to believe that a vehicle, system, component or separate technical unit is not in conformity with the requirements of this Regulation, in particular does not correspond to its type-approval or individual approval, they shall not place on the market, allow its entering into service or register the vehicle, system, component or separate technical unit until it has been brought into conformity. Furthermore, where they suspect that the vehicle, system, component, separate technical unit, part or equipment presents a serious risk, they shall inform the manufacturer and the market surveillance authorities. For type-approved vehicles, systems, components and separate technical units they shall also inform the approval authority that has granted the approval to that effect.**

⁷² DE, CZ: only the manufacturer can fulfil this obligation. Administrative burden for the manufacturer and the importer.

- 4. Importers shall indicate their name, registered trade name or registered trade mark and the address at which they can be contacted on the vehicle, system, component, separate technical unit, part or equipment, or, where this is not possible, on its packaging or in a document accompanying the system, component, separate technical unit, part or equipment.**⁷³
- 5. Importers shall ensure that the vehicle, system, component or separate technical unit is accompanied by the required instructions and information, as required in accordance with Article 45, in the official languages of the Member States concerned.**
- 6. Importers shall ensure that, while a vehicle, system, component or separate technical unit is under their responsibility, storage or transport conditions do not jeopardise its compliance with the requirements set out in this Regulation.**
- 7. When deemed appropriate with regard to the serious risks presented by a vehicle, system, component, separate technical unit, part or equipment, importers shall, to protect the health and safety of consumers, investigate and, if necessary, keep a register of complaints and recalls of vehicles, systems, components, separate technical units, parts or equipment and keep distributors informed of such monitoring.**

⁷³ DE: this is not necessary, manufacturer's name is already on the product.

Article 6d

Obligations of importers concerning their products that are not in conformity or do
present a serious risk

1. Importers who consider or have reason to believe that a vehicle, system,⁷⁴ component or separate technical unit which they have placed on the market, registered or are responsible for the entry into service is not in conformity with this Regulation shall immediately take the corrective measures necessary to bring that vehicle, system, component or separate technical unit into conformity, to withdraw it or to recall it, as appropriate.
2. Where a vehicle, system, component, separate technical unit, part or equipment presents a serious risk, importers shall immediately inform thereof the market surveillance and approval authorities of the Member States in which they have made the vehicle, system, component, separate technical unit, part or equipment available on the market, giving details, in particular, of the serious risk and any corrective measures taken.⁷⁵
3. Importers shall, for a period of 10 years after the placing on the market of the vehicle and for a period of at least 5 years as from the placing on the market for a system, component or separate technical unit, keep a copy of the certificate of conformity at the disposal of the market surveillance and approval authorities and ensure that the information package as referred to in Article 15(10) can be made available to those authorities, upon request.

⁷⁴ FR: delete "system". Vehicle encompasses the notion.

⁷⁵ FI: one single contact point should exist for economic operators.

- 4. Importers shall, following a reasoned request from a national authority, provide it with all the information and documentation necessary to demonstrate the conformity of a vehicle, system, component or separate technical unit in a language which can be easily understood by that authority. Importers shall cooperate⁷⁶ with that authority, at its request, on any action taken to eliminate the risks posed by a vehicle, system, component, separate technical unit, part or equipment which they have placed on the market.**

Article 6e

General obligations of distributors

- 1. Distributors shall act with due care in relation to the requirements applicable in the case of the making available on the market of a vehicle, system, component, separate technical unit, part or equipment.**
- 2. Before making available on the market, registration or entry into service of a vehicle, system, component or separate technical unit, distributors shall verify that the vehicle, system, component or separate technical unit bears the required statutory marking or type-approval mark, that it is accompanied by the required documents and by instructions and safety information in the official languages of the Member State in which the vehicle, system, component or separate technical unit is to be made available on the market, and that the manufacturer and the importer have complied with the requirements set out in Articles 6c(2), 6c(4), 25(1) and (2).⁷⁷**

⁷⁶ DE, FR: is this linked to the risk or the non-conformity ? Differentiate in the whole text between type-approval and non-type-approval market surveillance.

⁷⁷ FI: this is up to the type-approval authorities. Administrative burden and no added value. DE: too many obligations on distributors. There is the certificate of conformity. Not needed for components. COM: when there is no type-approval, obligations of economic operators should be clear. This empowers distributors to ask the manufacturers.

- 3. Distributors shall ensure that, while a vehicle, system, component or separate technical unit is under their responsibility, storage or transport conditions do not jeopardise its compliance with the requirements set out in this Regulation.**⁷⁸

Article 6f

Obligations of distributors concerning their products that are not in conformity or do present a serious risk

- 1. Where distributors consider or have reason to believe that a vehicle, system, component or separate technical unit is not in conformity with the requirements of this Regulation, they shall not make available on the market or register or enter into service the vehicle, system, component or separate technical unit until it has been brought into conformity.**
- 2. Distributors who consider or have reason to believe that a vehicle, system, component or separate technical unit which they have made available on the market or registered or for which they are responsible for the entry into service, is not in conformity with this Regulation, shall inform the manufacturer or the manufacturer's representative to make sure that the corrective measures ⁷⁹ necessary to bring that vehicle, system, component or separate technical unit into conformity or to recall it, if appropriate, are taken in accordance with Article 6a(1) or 6d(1).**

⁷⁸ FR: need to address the issue of supply of vehicles in parts, where remounting becomes production. AT: support. Differentiate which economic operator would be importer/distributor.

⁷⁹ FI: difficult for small distributors. Need for one contact point.

- 3. Where the vehicle, system, component, separate technical unit, part or equipment presents a serious risk, distributors shall immediately inform thereof and give details, in particular, of the serious risk and of any corrective measures taken by the manufacturer, the market surveillance and approval authorities of the Member States in which they made available on the market the vehicle, system, component, separate technical unit, part or equipment as well as the manufacturer and the importer of any action taken.**
- 4. Distributors shall, following a reasoned request from a national authority, ensure that the manufacturer provide the national authority with the information specified in Article 6a(4) or that the importer provide the national authority with the information specified in Article 6d(3). They shall cooperate with that authority, at its request, on any action taken in accordance with Article 20 of Regulation (EC) No 765/2008 to eliminate the risks posed by the vehicle, system, component, separate technical unit, part or equipment which they have made available on the Union market.**

Article 6g

Cases in which obligations of manufacturers apply to importers and distributors

An importer or distributor shall be considered a manufacturer for the purposes of this Regulation and shall be subject to the obligations of the manufacturer under Articles 6 to 6b, where the importer or distributor makes available on the market, registers or is responsible for the entry into service of a vehicle, system, component or separate technical unit under its name or trademark or modifies a vehicle, system, component or separate technical unit already made available on the market, registered or entered into service in such a way that compliance with the applicable requirements may be affected.

Article 6h

Identification of economic operators

Economic operators shall, on request, identify the following to the market surveillance and approval authorities, for a period of 5 years:

(a) any economic operator who has supplied them with a vehicle, system, component, separate technical unit, part or equipment;

(b) any economic operator to whom they have supplied a vehicle, system, component, separate technical unit, part or equipment.

CHAPTER III

SUBSTANTIVE REQUIREMENTS

Article 7

Requirements ~~on-road~~ for the functional safety of vehicles

1. Manufacturers shall ensure that vehicles are designed, constructed and assembled so as to minimise the risk of injury to the vehicle occupants and to other ~~road-users~~ **persons in the vehicle's surrounding area.**
2. Manufacturers shall ensure that vehicles, systems, components and separate technical units comply with the relevant requirements set out in this Regulation including the requirements relating to:
 - (a) vehicle structure integrity;
 - (b) systems to aid the control of the vehicle by the driver, **in particular as regards** ~~including steering, and braking systems, including advanced braking systems anti-lock braking systems~~ and electronic stability control systems;
 - (c) systems to provide the driver with visibility and information on the state of the vehicle and the surrounding area, including glazing, mirrors and driver information systems;
 - (d) vehicle lighting systems;
 - (e) vehicle occupant protection, including interior fittings, head restraint, seat belts, vehicle doors;
 - (f) vehicle exterior and accessories;
 - (g) electromagnetic compatibility;
 - (h) audible warning devices;
 - (i) heating systems;
 - (j) devices to prevent unauthorised use;

- (k) vehicle identification systems;
- (l) masses and dimensions;
- (m) electrical safety, **including static electricity**;
- (n) rear protective structures;
- (o) lateral protection;
- (p) load platforms;
- (q) ~~couplings and reversing devices~~ **towing devices**;
- ~~(r) controls;~~⁸⁰
- (s) tyres;
- (t) spray-suppression systems;
- (u) reverse gear**;
- (v) tracks**;
- (w) mechanical couplings, including protection against errors of fitting**.

2a. Components of vehicles, whose hazards of electrical nature are fully addressed in the delegated or implementing acts adopted under this Regulation, shall not be subject to the requirements of Directive 2006/95/EC on the harmonisation of the laws of Member States relating to electrical equipment designed for use within certain voltage limits.

3. The requirements referred to in paragraphs 1 and 2 shall apply to vehicles, systems, components and separate technical units intended therefor, insofar as they are declared **in Annex I to be** applicable to the relevant vehicle category ~~set out in Article 4~~ **by this Regulation**.

⁸⁰ *Has moved to Article 8(2).*

4. ~~The Commission shall be delegated powers to adopt in accordance with Article 57 a delegated act laying down the detailed technical requirements including test procedures and limit values, where applicable, for the subjects listed in paragraph 2 in order to ensure that a high level of road safety will be obtained.~~ **In order to ensure that a high level of functional safety is obtained, the Commission shall be empowered to adopt delegated acts in accordance with Article 57 concerning the detailed technical requirements for the subjects listed in paragraph 2 of this Article, including test procedures and limit values, where applicable. The first set of those delegated acts shall be adopted by [one year before entry into force].**⁸¹

These detailed requirements shall be such as to increase or at least maintain the level of functional safety provided for by the Directives referred to in Articles 62(1) and 63, and shall ensure the following:

- **vehicles with a maximum design speed of more than 40 km/h meet an equivalent level of functional safety with regard**⁸² **to brake performance and, where appropriate, anti-lock braking systems as motor vehicles and their trailers;**
- **the maximum contact pressure exerted on hard road surface from tyres or tracks does not exceed 0.8 MPa.**⁸³

⁸¹ UK: add at the end of paragraph 4: (MD T18/11)
"These delegated acts may contain exemptions from part or all of the detailed technical requirements for one or more subjects, for certain sub-categories of vehicle where applying the technical requirements would be disproportionate or inappropriate."

⁸² SE: delete the phrase "with regard to ... their trailers".

⁸³ CZ, DE, ES, IT, RO: reservation on this addition suggested by DK (MD T21/11 REV1).

Article 8

*Requirements ~~on~~ **for** occupational safety*

1. Manufacturers shall ensure that vehicles are designed, constructed and assembled so as to minimise the risk of injury to persons working on or with the vehicle.
2. Manufacturers shall ensure that vehicles, systems, components and separate technical units comply with the relevant requirements set out in this Regulation including the requirements relating to:
 - (a) roll-over protection ~~systems~~ **structures** (hereinafter "ROPS");
 - (b) falling objects protection ~~systems~~ **structures** (hereinafter "FOPS");
 - (c) passenger seats;
 - (d) ~~internal sound levels~~ **driver's exposure to noise level;**
 - (e) driving seat;
 - (f) operating space and access to the driving position, **including protection against slipping, tripping or falling;**
 - (g) power take-offs;
 - (h) protection of drive components;
 - (i) seat-belt anchorage points;
 - (j) safety belts;
 - (k) protection of driver against penetrating objects (hereinafter "OPS");
 - (l) protection of driver against hazardous substances;
 - (lb) protection from exposure to parts or materials at extreme temperatures;**
 - (m) operators manual;
 - (n) controls, including safety and reliability of control systems, emergency and automatic stop devices;**
 - ~~(o) —mechanical couplings~~ ⁸⁴
 - (p) protection against mechanical hazards, other than the ones mentioned in Article 8.2 (a), (b), (g) and (k), including protection against rough surfaces, sharp edges and angles, rupture of pipes carrying fluids and uncontrolled movement of the vehicle;**
 - (q) operation and maintenance, including safe cleaning of the vehicle;**

⁸⁴ *Has moved to Article 7(2).*

- (r) guards and protective devices;**
- (s) information, warnings and markings;**
- (t) materials and products;**
- (u) batteries.**

3. The requirements referred to in paragraphs 1 and 2 shall apply to vehicles, systems, components and separate technical units intended therefor, insofar as they are declared **in Annex I to be** applicable to the relevant vehicle category by this Regulation.
4. ~~The Commission shall be delegated powers to adopt in accordance with Article 57 a delegated act laying down the detailed technical requirements including test procedures and limit values, where applicable, for the subjects listed in paragraph 2 i~~**In order to ensure that a high level of occupational safety will be is obtained, the Commission shall be empowered to adopt delegated acts in accordance with Article 57 concerning the detailed technical requirements for the subjects listed in paragraph 2 of this Article, including test procedures and limit values, where applicable. The first set of those delegated acts shall be adopted by [one year before entry into force].**⁸⁵

Those detailed technical requirements shall be such as to increase or at least maintain the level of occupational safety provided for by the Directives referred to in Articles 62(1) and 63, taking into account of ergonomics (including protection against foreseeable misuse, usability of control systems, accessibility of controls to avoid their unintentional activation, adaptation of the person/vehicle interface to the foreseeable characteristics of the driver, vibrations, operator intervention), stability and fire safety.

⁸⁵ UK: add at the end of paragraph 4: (MD T18/11)
 "These delegated acts may contain exemptions from part or all of the detailed technical requirements for one or more subjects, for certain sub-categories of vehicle where applying the technical requirements would be disproportionate or inappropriate."

Article 9

Requirements ~~for~~ on environmental performance

1. Manufacturers shall ensure that vehicles are designed, constructed and assembled so as to minimise the impact ~~to~~ on the environment.
2. Manufacturers shall ensure that vehicles, systems, components and separate technical units comply with the relevant requirements set out in this Regulation, including the requirements relating to:
 - (a) pollutant emissions;
 - (b) external sound level.
3. The specific limit values, test procedures and ~~test~~ requirements for pollutant emissions laid down for mobile machinery in Directive 97/68/EC⁸⁶ shall apply.

3a. The limit values for the specific external sound levels may not exceed the following levels:

- 89dB(A) for tractors with an unladen mass, in running order, of more than 1500 kg,

- 85 dB(a) for tractors with an unladen mass, in running order, of not more than 1500 kg.

They shall be measured in accordance with the test procedures laid down in the delegated act referred to in paragraph 5.

4. The requirements referred to in paragraphs 1 and 2 shall apply to vehicles, systems, components and separate technical units intended therefor, insofar as they are declared in Annex I to be applicable to the relevant vehicle category by this Regulation.
5. The Commission shall be **empowered to adopt** delegated ~~acts~~ **powers to adopt** in accordance with Article 57 **concerning** ~~a delegated act laying down~~ the detailed technical requirements **on the external sound level**, including test procedures ~~and limit values, where applicable, on the external sound level as described in paragraph 2(b) and~~ **on** the installation **in a vehicle** of ~~engines~~ approved ~~engines in a vehicle~~ **as regards pollutant emissions** and the related provisions for flexibility ~~as described in paragraphs 2(a) and 3~~ in order to ensure that a high

⁸⁶ OJ L 59 of 27.2.1998, p.1.

level of environmental performance will be obtained.⁸⁷ **The first set of those delegated acts shall be adopted by [*one year before entry into force*].**

Those specific technical requirements shall be such as to increase or at least maintain the level of environmental performance provided for by the Directives referred to in Article 62(1) and, where applicable, Article 63.

⁸⁷ FR, DE, NL, BG: scrutiny reservation. Replace delegated acts by implementing measures.
COM: for substantial requirements delegated acts will be adopted.

CHAPTER IV

EU TYPE-APPROVAL PROCEDURES

Article 10

Procedures for ~~the EU whole-vehicle~~ type-approval

1. **When applying for type-approval of a whole vehicle,** the manufacturer may choose one of the following procedures:

- (a) step-by-step type-approval;
- (b) single-step type-approval;
- (c) mixed type-approval;
- ~~(d) multi-stage approval.~~

In addition, the manufacturer may choose the multi-stage approval.

Only the single-step type-approval procedure is applicable for the type-approval of systems, components or separate technical units.

2. ~~The~~ **Step-by-step** type-approval ~~procedure is a vehicle approval procedure~~ **shall** consisting in the step-by-step collection of the whole set of EU type-approval certificates for the systems, components and separate technical units ~~relating to~~ **forming part of** the vehicle, and which leads, at the final stage, to the approval of the whole vehicle.
- 2a.** ~~The~~ **Single-step** type-approval ~~is a procedure~~ **shall** consisting in the approval of a vehicle as a whole by means of a single operation.

- 2b.** The Mixed type-approval is a step-by-step type-approval procedure for which one or more system approvals are achieved during the final stage of the approval of the whole vehicle, without it being necessary to issue the EU type-approval certificates for those systems.
- 2c.** The In a multi-stage type-approval procedure, ~~is an approval procedure in which~~ one or more approval authorities certify that, depending on the state of completion, an incomplete or completed type of vehicle satisfies the relevant administrative provisions and technical requirements of this Regulation.
- ~~3.~~ Multi-stage type-approval shall be granted in respect of a type of incomplete or completed vehicle which conforms to the particulars in the information folder and which meets the technical requirements ~~specified by~~ **laid down in** the relevant acts listed in Annex I, having regard to the state of completion of the vehicle.
4. The type-approval for the final stage of completion shall ~~only~~ be granted **only** after the approval authority has verified that the **vehicle** ~~type-approval(s) issued for the incomplete vehicle certify that the vehicle type that is~~ **type**-approved at the final stage meets **at that time** all **applicable** technical requirements; ~~applicable at the time when and for the category of vehicle for which the type-approval for the completed vehicle is granted~~ **this shall include a documentary check of all requirements covered by a type-approval for an incomplete vehicle granted in the course of a multistage procedure, even where granted for a different (sub-)category of vehicle.**
5. The choice of the approval procedure shall not affect the applicable **substantive** regulatory requirements with which the approved vehicle type has to comply at the time of ~~the~~ issuing of the whole-vehicle type-approval.
6. **In order to ensure a uniform application of this Article, the Commission shall adopt for the first time no later than 1 January 2013 by means of implementing acts** ~~Implementing powers are conferred on the Commission in order to lay down templates for the detailed~~ **eds** of the arrangements with regard to type-approval procedures in ~~Article 54.~~ **Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 55(2).**

Article 11

Application for type-approval

1. The manufacturer shall submit the application for type-approval to the approval authority.
2. Only one application may be submitted in respect of a particular type of vehicle, **system,**
component or separate technical unit and it may be submitted in only one Member State.
3. A separate application shall be submitted for each type to be approved.

Article 12

Information folder ~~to be provided in the application for type approval~~

1. ~~An information document, as specified in implementing legislation, prescribes the information to be supplied by the applicant.~~

The applicant shall provide to the approval authority an information folder.

- 1a.** The information folder shall include the **following:**

- (a)** **an** information document ~~and;~~
- (b)** all data, drawings, photographs and other information; ~~required therein.~~
- (c)** **for vehicles, indication of the procedure(s) chosen in accordance with Article 10(1).**
- (d)** **any additional information requested by the type-approval authority in the context of the application procedure.**

- 1b.** ~~Such~~ **The** information **folder** may be supplied on paper or in electronic format **as admissible by the technical service and by the approval authority.**

- 1c.** ~~Implementing powers are conferred on~~ **The Commission shall for the first time no later than 1 January 2013 in order to lay down templates for an** ~~the~~ **information document and for an** ~~the~~ **information folder in Article 54 by means of an implementing act. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 55(2).**

- ~~2. When applying for type approval, the manufacturer shall specify the chosen procedure in accordance with Article 10 (1) a) to d), and provide the information folder.~~

Article 13

Specific requirements for information to be provided in the application for type-approval under different procedures

1. An application for step-by-step type-approval shall be accompanied by an information folder **in accordance with Article 12** and ~~shall be accompanied~~ by the complete set of type-approval certificates required pursuant to each of the applicable ~~separate~~ acts and UNECE regulations or OECD Codes listed in Annex I.

In the case of the type-approval of a system or separate technical unit, pursuant to the applicable acts listed in Annex I, the approval authority shall have access to the related information folder until such time as the approval is either issued or refused.

2. An application for single-step type-approval shall be accompanied by an information folder **in accordance with Article 12** containing the relevant information in relation to the acts listed in Annex I.
3. In the case of a mixed type-approval procedure, the information folder shall be accompanied by one or more type-approval certificates required pursuant to each of the applicable ~~separate~~ acts and UNECE regulations or OECD Codes ~~listed in Annex I~~ **referred to in the delegated acts adopted under this Regulation** and shall include, insofar as no type-approval certificate is presented, the relevant information required in the implementing measures to this Regulation, in relation to the acts listed in Annex I.
4. Without prejudice to paragraphs 1, 2 and 3, the following information shall be supplied for the purposes of multi-stage type-approval:
 - (a) ~~At in~~ the first stage, those parts of the information folder and the EU type-approval certificates ~~required for a complete vehicle~~ which are relevant to the state of completion of the base vehicle;

- (b) ~~At~~ **in** the second and subsequent stages, those parts of the information folder and the EU type-approval certificates which are relevant to the current stage of construction, together with a copy of the EU type-approval certificate for the vehicle issued at the preceding stage of construction; ~~in addition, the manufacturer shall supply~~ **and** full details of any changes or additions ~~that he has~~ made to the vehicle.

The information specified in points (a) and (b) may be supplied in accordance with paragraph ~~2~~ **3**.

5. The approval authority may, by reasoned request, ~~call upon~~ **require** the manufacturer to supply any additional information needed to enable a decision to be taken on which tests are required or to facilitate the execution of those tests.

Article 14 ⁸⁸

~~*Procedure to be followed for the EU type-approval of systems, components or separate technical units*~~

~~The manufacturer shall submit the application to the approval authority.~~

~~Only one application may be submitted in respect of a particular type of system, component or separate technical unit and it may be submitted in only one Member State.~~

~~A separate application shall be submitted for each type to be approved.~~

⁸⁸ *This Article was integrated into Articles 10 and 11.*

CHAPTER V

CONDUCT OF EU TYPE-APPROVAL PROCEDURES

Article 15

General provisions

1. Approval authorities shall ~~only~~ grant an EU type-approval **only** after ~~having ensured that~~ **verifying** the conformity of production procedures referred to in Article 19 ~~have been implemented and if~~ **and the compliance of** the type of vehicle, system, component or separate technical unit ~~complies~~ with the applicable requirements.
2. EU type-approvals shall be granted in accordance with ~~Articles 16 and 17~~ **this Chapter**.
3. If an approval authority finds that a type of vehicle, system, component or separate technical unit, ~~albeit built in conformity with~~ **though conforming to** the required provisions, presents a serious risk to ~~road~~ safety or **may** seriously harms the environment or public health or, ~~for tractors,~~ presents a serious risk to occupational safety, it may refuse to grant EU type-approval. In this case, it shall immediately send to the approval authorities of the other Member States and the Commission a detailed file explaining the reasons for its decision and setting out the evidence for its findings.
4. EU type-approval certificates shall be numbered in accordance with a harmonized system **laid down by the Commission by means of an implementing act. That implementing act shall be adopted for the first time no later than 1 January 2013 in accordance with the examination procedure referred to in Article 55(2).**

5. The approval authority shall, within ~~20 working days~~ **one month**, send to the approval authorities of the other Member States a copy of the EU vehicle type-approval certificate, together with the attachments, for each type of vehicle which it has approved **by means of a common secure electronic exchange system**. The ~~hard~~ copy may ~~be replaced by~~ **also take the form of a secure** ~~an~~ electronic file.
6. The approval authority shall inform without delay the approval authorities of the other Member States of its refusal or withdrawal of any vehicle approval, together with the reasons for its decision.
7. **At three-monthly intervals,** the approval authority shall send ~~at three-monthly intervals~~ to the approval authorities of the other Member States a list of the ~~system, component or separate technical unit~~ EU type-approvals it has granted, amended, refused to grant or withdrawn **for systems, components or separate technical units** during the preceding period.
8. If so requested by an approval authority of another Member State, the approval authority which has granted an EU type-approval shall, within ~~20 working days~~ **one month** of receiving that request, send to the former a copy of the **requested** EU type-approval certificate ~~in question~~, together with the attachments **by means of a common secure electronic exchange system**. The ~~paper~~ copy may **also** ~~be replaced by~~ **take the form of a secure** ~~an~~ electronic file.
9. If so requested by the Commission, the approval authority shall submit the information described **referred to** in paragraphs 5 to 8 ~~also~~ to the Commission **as well**.

10. The approval authority shall put together an information package consisting ~~in~~ **of** the information folder accompanied by the test reports and all other documents added by the technical service or by the approval authority to the information folder in the course of carrying out their functions. The information ~~folder~~ **package** shall contain an index listing of the contents of the information package, suitably numbered or otherwise marked so as to identify clearly all the pages, **and** the format of ~~that~~ **each** document ~~being~~ such as to present a record of the successive steps in the management of the EU type-approval, in particular the dates of ~~the~~ revisions and updating. **The approval authority shall keep information contained in the information package available for a period of 10 years after the end of validity of the approval concerned.**

Article 16

Specific provisions concerning the EU type-approval certificate

1. The EU type-approval certificate shall contain, as attachments, the following:
 - (a) the information package referred to in Article 15(10);
 - (b) the test results;
 - (c) the name(s) and specimen(s) of the signature(s) of the person(s) authorised to sign certificates of conformity and a statement of their position in the company.
 - (d) in the case of an EU whole vehicle type-approval, a filled-out specimen of the certificate of conformity.**
2. The EU type-approval certificate shall be issued on the basis of the template laid down **by the Commission by means of an implementing act. That implementing act shall be adopted for the first time no later than 1 January 2013 in accordance with the examination procedure referred to in Article 55(2).** ~~in the implementing act to this Regulation.~~
3. In respect of each type of vehicle, the approval authority shall:
 - (a) complete all the relevant sections of the EU type-approval certificate, including the test results sheet appended thereto, ~~in accordance with the template of the type-approval certificate set out in the implementing act to this Regulation.~~
 - (b) compile the index to the information package;
 - (c) issue the completed certificate, together with its attachments, to the applicant without delay.

The Commission shall for the first time no later than 1 January 2013 lay down the template for the test results sheet referred to in point (a) of this paragraph by means of an implementing act. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 55(2).

4. In the case of an EU type-approval ~~in relation to~~ **for** which, in accordance with Article 26, restrictions have been imposed as to its validity, or certain provisions of **this Regulation or the delegated and implementing acts adopted under this Regulation** have been waived, the EU type-approval certificate shall specify those restrictions or waivers.
5. Where the manufacturer chooses the mixed type-approval procedure, the approval authority shall complete ~~in~~ the information document **with** the references ~~for~~ **to** the test reports, established by ~~regulatory~~ **the implementing acts referred to in Article 18(1)**, for which no EU type-approval certificate is available. ~~Implementing powers are conferred on the Commission in order to lay down a template of such a document in Article 54.~~
6. Where the manufacturer chooses the single-step type-approval procedure, the approval authority shall establish ~~the a~~ **a** list of applicable requirements or acts and append that list to the EU type-approval certificate. **The Commission shall adopt for the first time no later than 1 January 2013 the template for such a list by means of an implementing act. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 55(2).** ~~Implementing powers are conferred on the Commission in order to lay down a template of such a list in Article 54.~~

Article 17

Specific provisions concerning systems, components or separate technical units

1. EU type-approval shall be granted in respect of a system which conforms to the particulars in the information folder and which meets the technical requirements laid down in the relevant acts listed in Annex I.
2. ~~A component or separate technical unit EU~~ **An EU type-approval for a component or separate technical unit** shall be granted in respect of a component or separate technical unit ~~which~~ **that** conforms to the particulars in the information folder and which meets the technical requirements laid down in the relevant separate acts listed in Annex I.
3. Where components or separate technical units, whether or not intended for repair, servicing or maintenance, are also covered by a system type-approval with respect to a vehicle, no additional component or separate technical unit approval shall be required unless provided for under the relevant acts listed in Annex I.
4. Where a component or separate technical unit fulfils its function or offers a specific feature only in conjunction with other parts of the vehicle, thereby making it possible to verify compliance with the requirements only when the component or separate technical unit is operating in conjunction with those other vehicle parts, the scope of the EU type-approval of the component or the separate technical unit shall be restricted accordingly.

In such cases, the EU type-approval certificate shall specify any restriction on its ~~its~~ **the use of the component or separate technical unit** and shall indicate the special conditions for its mounting.

~~When~~ **Where** such a component or separate technical unit is fitted by the vehicle manufacturer, compliance with any applicable restrictions on use or conditions for mounting shall be verified at the time when the vehicle is approved.

Article 18

Tests required for EU type-approval

1. Compliance with the technical prescriptions laid down in this Regulation and in the acts listed in Annex I shall be demonstrated by means of appropriate tests performed by designated technical services.

The test procedures **referred to in the first subparagraph** and the specific equipment and tools prescribed to perform those tests ~~are described in those acts~~ **shall be those laid down in the relevant acts listed in Annex I.**

The format of the test report shall comply with the general requirements as laid down by the Commission for the first time no later than 1 January 2013 in an implementing act. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 55(2).

2. The manufacturer shall make available to the approval authority as many vehicles, components or separate technical units as are required under the relevant acts **listed in Annex I** for the performance of the required tests.
3. The required tests shall be performed on vehicles, components and separate technical units which are representative of the type to be approved.

However, the manufacturer may select, in agreement with the approval authority, a vehicle, a system, a component or a separate technical unit which, while not representative of the type to be approved, combines a number of the most unfavourable features with regard to the required level of performance. Virtual testing methods may be used to aid decision-making during the selection process.

4. **Subject to the agreement of the approval authority,** virtual testing methods may be used as alternatives to the test procedures referred to in paragraph 1 ~~and subject to the agreement of the approval authority,~~ at the request of the manufacturer with respect to those requirements listed **established** in the delegated acts **referred to in paragraph 6** ~~adopted under this Regulation.~~
5. Virtual testing methods shall fulfil the conditions set out in the delegated acts **referred to in paragraph 6** ~~adopted under this Regulation.~~
6. **In order to ensure that the results obtained through virtual testing are as meaningful as those obtained through physical testing,** the Commission shall **be empowered to adopt delegated acts in accordance with Article 57 concerning** ~~be delegated powers to adopt in accordance with Article 57 a delegated act specifying which~~ **the** requirements **which** can be subject to virtual testing and ~~laying down the conditions under which such~~ **the** virtual testing must **shall** be performed ~~in order to ensure that the results obtained through virtual testing are as meaningful as those obtained through physical testing.~~ **When adopting those, the Commission shall take as a basis the requirements and procedures provided for in Annex XVI to Directive 2007/46/EC on "Specific conditions required from virtual testing methods and regulatory acts for which virtual testing methods may be used by a manufacturer or a technical service", as appropriate.**

Article 19

Conformity of production arrangements

1. ~~The An~~ approval authority which grants an EU type-approval shall take the necessary measures to verify, if ~~need be~~ **necessary** in cooperation with the approval authorities of the other Member States, that adequate arrangements have been made to ensure that ~~production~~ **the** vehicles, systems, components or separate technical units **in production**, ~~as the case may be,~~ conform to the approved type.

1a. An approval authority which grants a whole-vehicle type-approval shall take the necessary measures to verify that certificates of conformity issued by the manufacturer conform to Article 24. To that end, the approval authority shall verify that a sufficient number of samples of certificates of conformity conform to Article 24 and that the manufacturer has made adequate arrangements to ensure that the data in the certificates of conformity are correct.
2. ~~The An~~ approval authority which has granted an EU type-approval shall take the necessary measures in relation to that approval to verify, if ~~need be~~ **needed** in cooperation with the approval authorities of the other Member States, that the arrangements referred to in paragraphs 1 **and 1a** continue to be adequate ~~and so~~ that production vehicles, systems, components or separate technical units, as the case may be, continue to conform to the approved type **and that certificates of conformity continue to comply with Article 24.**

- 2a.** ~~Verification to ensure~~ **In order to verify** that ~~a~~ vehicles, systems, components or separate technical units conforms to the approved type, ~~shall be limited to the procedures set out in the implementing acts to this Regulation. To that end,~~ the approval authority of the Member State which has granted the EU type-approval may carry out any of the checks or tests prescribed with regard to **set out in the relevant** the regulatory requirement which is subject of the EU type-approval **legislation**, on samples taken in ~~in~~ **at** the premises of the manufacturer, including production facilities.
3. When an approval authority which has granted an EU type-approval establishes that the arrangements referred to in paragraphs ~~1~~ **and 1a** are not being applied, deviate significantly from the arrangements and control plans agreed, have ceased to be applied or are no longer considered to be adequate, **even** although production ~~is~~ **is** continued, ~~that approval authority it~~ shall take the necessary measures to ensure that the **procedure for** conformity of production ~~procedure~~ is followed correctly or **shall** withdraw the type-approval.
- 4. The Commission shall adopt for the first time no later than 1 January 2013 the detailed arrangements with regard to conformity of production by means of implementing acts. The first set of those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 55(2).**

CHAPTER VI

AMENDMENTS TO EU TYPE-APPROVALS

Article 20

General provisions

1. The manufacturer shall inform without delay the approval authority that granted the EU type-approval of any change in the particulars recorded in the information package.

That approval authority shall decide, ~~in accordance with the rules laid down in this Chapter,~~ which **of the** procedures **laid down in Article 21** is to be followed.

Where necessary, ~~it~~ **the approval authority** may decide, ~~in~~ **after** consultation ~~on~~ with the manufacturer, that a new EU type-approval ~~or a new individual approval~~ is to be granted.

2. An application for the amendment of an EU type-approval shall be submitted exclusively to the approval authority that granted the original EU type-approval.
3. If the approval authority finds that, for the purposes of making an amendment, ~~the repetition of inspections or tests is necessary~~ **need to be repeated**, it shall inform the manufacturer accordingly.

The procedures referred to in Article ~~19~~ **21** shall apply only if on the basis of those inspections or tests the approval authority concludes ~~ed~~ that the requirements for EU type-approval continue to be fulfilled.

Article 21

~~Specific provisions concerning vehicles, systems, components or separate technical units~~

Revisions and extensions of EU type-approvals

1. If particulars recorded in the information package have changed, without requiring ~~the repetition of~~ inspections or tests **to be repeated**, the amendment shall be designated a "revision".

In such cases, the approval authority shall issue the revised page of the information package as necessary, marking each revised pages to show clearly the nature of the change and the date of re-issue. A consolidated, updated version of the information package, accompanied by a detailed description of the changes, shall be deemed to meet this requirement.

2. The amendment shall be designated an 'extension' ~~if, in addition to the provisions of paragraph 1,~~ **when particulars recorded in the information package have changed and** any of the following occurs:

- (a) further inspections or tests are required;
- (b) any information on the EU type-approval certificate, with the exception of its attachments, has changed;
- (c) new requirements under any of the acts **listed in Annex I** applicable to the approved vehicle type or to the approved system, component or separate technical unit ~~enter into force~~ **become applicable**.

In ~~such~~ **the** cases **of an extension**, the approval authority shall issue a revised EU type-approval certificate denoted by an extension number, incremented in accordance with the number of successive extensions already granted. The approval certificate shall ~~show~~ clearly **show** the reason for the extension and the date of re-issue.

- 3.** Whenever amended pages or a consolidated, updated version are issued, the index to the information package attached to the approval certificate shall be amended accordingly to show the date of the most recent extension or revision, or the date of the most recent consolidation of the updated version.
- 4.** **No amendment to the approval of a type of vehicle shall be required if the new requirements referred to in paragraph 2(c) are, from a technical point of view, irrelevant to that type of vehicle or concern categories of vehicle other than the category to which it belongs.**

Article 22

Issue and notification of amendments

1. In the case of an extension all relevant sections of the EU type-approval certificate, the attachments thereto, and the index to the information package shall be updated. The updated certificate and its attachments shall be issued to the applicant without delay.
2. In the case of a revision, the revised documents or the consolidated, updated version, as appropriate, including the revised index to the information package, shall be issued by the approval authority to the applicant without delay.
3. The approval authority shall notify any amendment made to EU type-approvals to the approval authorities of the other Member States in accordance with the procedures set out in Article 15.

CHAPTER VII

VALIDITY OF EU TYPE-APPROVAL

Article 23

Termination of validity

1. EU type-approvals shall be issued for an unlimited duration.
2. An EU type-approval of a vehicle shall cease to be valid in any of the following cases:
 - (a) new requirements in any act applicable to the approved vehicle type become mandatory for the **making available on the market**, registration, ~~sale~~, or entry into service of ~~new~~ vehicles, and it is not possible to update the type-approval accordingly;
 - (b) production of the approved vehicle is definitively discontinued voluntarily;
 - (c) the validity of the ~~type~~-approval expires by virtue of a special restriction in accordance with Article 26;
 - (d) the approval has been withdrawn according to Articles 19(3) or 37(1).**
3. Where only one variant within a type or one version within a variant becomes invalid, the EU type-approval of the vehicle in question shall lose validity only in so far as the particular variant or version is concerned.
4. When production of a particular type of vehicle is definitively discontinued, the manufacturer shall notify the approval authority that granted the EU type-approval for that vehicle.

Upon receiving such ~~the~~ notification **referred to in the first subparagraph**, that ~~the~~ **approval** authority **which granted the EU type-approval for the vehicle** shall inform the approval authorities of the other Member States accordingly within ~~20 working days~~ **one month**.

5. Without prejudice to paragraph 4, in cases where an EU type-approval of a vehicle is due to become invalid, the manufacturer shall notify the approval authority that granted the EU type-approval.

The approval authority **that granted the EU type-approval** shall without delay communicate all relevant information to the approval authorities of the other Member States so as to enable the application, where appropriate, of Article 34.

~~That~~ **The** communication **referred to in the second subparagraph** shall specify, in particular, the date of production and the vehicle identification number of the last vehicle produced.

CHAPTER VIII

CERTIFICATE OF CONFORMITY AND MARKINGS

Article 24

Certificate of conformity

1. The manufacturer, in ~~his~~ **its** capacity ~~of as~~ the holder of a ~~whole~~-vehicle type-approval, shall deliver a certificate of conformity as a paper document to accompany each vehicle, whether complete, incomplete or completed, which is manufactured in conformity with the approved vehicle type.

Such **a** certificate shall be delivered free of charge to the buyer together with the vehicle; ~~Its~~ delivery may not be made dependent on an explicit request or the submission of additional information to the manufacturer.

Upon request of the owner of the vehicle, the vehicle manufacturer shall, during a period of 10 years after the production date of the vehicle, issue a duplicate of the certificate of conformity to the vehicle owner, against a payment not exceeding the cost of issuing it. The word "duplicate" shall be clearly visible on the face of any duplicate certificate.

2. The manufacturer shall use the template ~~of~~ **for** the certificate of conformity **adopted by the Commission for the first time no later than 1 January 2013 by means of an implementing act. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 55(2).** ~~given in implementing measures in accordance with Article 54.~~ **The certificate of conformity shall be designed to prevent forgery. To that end, the implementing act shall provide that the paper used in the certificate shall be protected by several security printing features.**
3. ~~Unless a different agreement has been concluded with the buyer of the vehicle, the~~ **The** certificate of conformity shall be drawn up in ~~an~~ **one of the** official languages ~~of the~~ **Union.** Any Member State ~~where the vehicle is purchased~~ **may request the certificate of conformity to be translated into its own official language or languages.**

4. ~~The certificate of conformity shall be designed to prevent forgery. To that end, the paper used shall be protected either by coloured graphics or by a watermark in the form of the manufacturer's identification mark.~~

4a. The person(s) authorised to sign certificates of conformity shall be in the manufacturer's organisation and shall be duly authorised by the management to fully engage the legal responsibility of the manufacturer with respect to the design and the construction or to the conformity of the production of the vehicle.

5. The certificate of conformity shall be completed in its entirety. ~~It and shall~~ **only** not contain restrictions as regards the use of the vehicle ~~other than those~~ **as laid down by the Commission for the first time no later than 1 January 2013 by means of implementing acts. The first set of those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 55(2),** provided for in a regulatory act.⁸⁹

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6. In the case of an incomplete or completed vehicle, the manufacturer shall ~~complete~~ **fill-in** only those items ~~on side 2~~ of the certificate of conformity which have been added or changed at the current stage of approval and, if applicable, shall attach to the certificate all certificates of conformity delivered at the previous stages.

7. The certificate of conformity, ~~as set out in the implementing act to this Regulation,~~ **shall**, for vehicles approved in accordance with ~~paragraph 2 of Article 26(2),~~ shall display in ~~the~~ **its** title ~~thereof~~ the phrase 'For complete/completed vehicles, type-approved in application of Article 26 of Regulation **(EU) No .../...** [*this Regulation*](provisional approval).'

⁸⁹ **UK**: replace paragraph 5 by the following text: (MD T 7/12)

"The certificate of conformity shall be completed in its entirety and shall not contain restrictions as regards the use of the vehicle, other than those provided for within this Regulation or any of its delegated or implementing acts."

⁹⁰ **AT**: add a new paragraph 5a:

"5a. Data in the certificate of conformity shall be in line with the data in the type-approval certificate and its attachments referred to in Article 28(1). The manufacturer shall make adequate arrangements to ensure that the data in the certificates of conformity are correct in accordance with the implementing act adopted in accordance with Article 54." (MD Q+T 04/11).

8. ~~The certificate of conformity as set out in the implementing act shall, for vehicles type-approved in accordance with Article 28, display in the title thereof the phrase "For complete/completed vehicles type-approved in small series", and in close proximity thereto the year of production followed by a sequential number, between 1 and the limit indicated in the table set out in Part 1 of Annex II, denoting, in respect of each year of production, the position of that vehicle within the production allocated for that year.~~
9. Without prejudice to 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.
10. ~~A duplicate of the certificate of conformity may shall be issued only by the manufacturer. The word "duplicate" must shall be clearly visible on the face of any duplicate certificate.~~
(moved to paragraph 1, 3rd subparagraph)

Article 25

Type approval mark

Statutory plate with the appropriate marking of vehicles and type-approval mark of components or separate technical units

- 1. The manufacturer of a vehicle shall affix to each vehicle manufactured in conformity with the approved type a statutory plate with the appropriate marking required by the relevant implementing act pursuant to paragraph 3 of this Article.**
1. The manufacturer of a component or separate technical unit, whether or not it is part of a system, shall affix to each component or **separate technical** unit manufactured in conformity with the approved type the type-approval mark required by the relevant ~~delegated~~ **implementing** act ~~under~~ **adopted pursuant to** this Regulation or the relevant UNECE regulation or OECD Code.

2. Where no such type-approval mark is required, the manufacturer shall affix at least the trade name or trade mark of the manufacturer, ~~and~~ the type number ~~and~~ **or** an identification number.
3. The **statutory plate and** EU type-approval mark shall be ~~drawn~~ in accordance with the model set out **by the Commission for the first time no later than 1 January 2013 by means of implementing acts. The first set of those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 55(2)** ~~in implementing legislation to this Regulation.~~

CHAPTER IX

EXEMPTIONS ~~AND~~ FOR NEW TECHNOLOGIES OR NEW

CONCEPTS

~~INCOMPATIBILITY WITH DELEGATED ACTS OR UNECE~~

REGULATIONS

Article 26

Exemptions for new technologies or new concepts

1. The manufacturer may apply for an EU type-approval⁹¹ in respect of a type of **vehicle**, system, component or separate technical unit that incorporates new technologies or concepts which are incompatible with one or more acts ~~or requirements~~ listed in Annex I.
2. The approval authority shall grant the EU type-approval referred to in paragraph 1 if **when** all of the following conditions are met:
 - (a) the application states the reasons why the technologies or concepts in question make the system, component or separate technical unit incompatible with ~~the requirements~~ **one or more acts listed in Annex I**;
 - (b) the application describes the safety and environmental implications of the new technology and the measures taken in order to ensure ~~that by comparison with the requirements from which exemption is sought~~, at least an equivalent level of safety and environmental protection is ensured **as that provided by the requirements from which exemption is sought**;
 - (c) test descriptions and results are presented which prove that the condition in point (b) is met.

⁹¹ AT, UK: scope too broad? EU type approval should be applied to vehicles instead of a type of system, component or separate technical unit.

- ~~5~~ **3.** The granting of such an EU type-approval ~~an exemption~~ for new technologies or new concepts shall be subject to authorisation by the Commission. That authorisation shall be given in the form of an implementing act adopted in accordance with the examination procedure referred to in Article 55(2).
- ~~3~~ **4.** Pending the decision on authorisation by the Commission, the approval authority may ~~grant a provisional~~ already issue the EU type-approval, but it shall be provisional, valid only in the territory of that Member State, in respect of a type of vehicle covered by the exemption sought. The approval authority shall inform the Commission and the other Member States thereof without delay by means of a file containing the information referred to in paragraph 2.
- The provisional nature and the limited territorial validity shall be apparent from the heading of the type-approval certificate and the heading of the certificate of conformity. Implementing powers are conferred on the Commission in order to provide for harmonised templates for the type-approval certificate and the certificate of conformity.
- ~~4~~ **5.** Other approval authorities may decide to accept⁹² in writing the provisional approval referred to in paragraph ~~3~~ **4** ~~on~~ within their territory.
- 6.** Where appropriate, the ~~decision on~~ authorisation by the Commission referred to in paragraph 3 shall also specify whether its ~~validity~~ is subject to any restrictions. In all cases, the ~~validity of the type-~~approval shall ~~not be less than~~ valid for at least 36 months.
- 7.** If the Commission decides to refuse authorisation, the approval authority shall immediately give notice to the holder of the provisional type-approval referred to in paragraph ~~3~~ **4** that the provisional approval will be revoked six months after the date of the Commission's ~~decision~~ refusal.

However, vehicles manufactured in conformity with the provisional approval before it was revoked shall ceases to be valid may be ~~permitted to be~~ placed on the market, registered, ~~sold~~ or enter into service in any Member State that accepted the provisional approval.

⁹² RO: is there a specific time framework for this acceptance? 90 days? COM: no time framework as it is not necessary.

Article 27

Action required

Subsequent adaptation of delegated and implementing acts

1. Where the Commission authorises ~~the~~ granting of an exemption pursuant to Article 26, it shall immediately take the necessary steps to adapt the delegated **or implementing** acts ~~or requirements~~ concerned to technological developments.

Where the exemption ~~pursuant to~~ **under** Article 26 relates to a UNECE regulation, the Commission shall propose an amendment to the relevant UNECE regulation in accordance with the procedure applicable under the ~~Revised 1958 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 used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions.**

2. As soon as the relevant acts ~~or requirements~~ have been amended, any restriction ~~attaching to~~ **in the Commission decision authorising** the exemption shall be lifted.

If the necessary steps to adapt the delegated **or implementing** acts ~~or requirements~~ have not been taken, the ~~validity of an exemption may be extended~~ **Commission may**, at the request of the Member State which granted the approval, ~~by a Commission~~ **authorise by means of a decision in the form of an implementing act** adopted in accordance with the **examination** procedure referred to in Article 55(2) **the Member State to extend the type-approval.**

CHAPTER X

VEHICLES PRODUCED IN SMALL SERIES

Article 28

National type-approval of small series

1. The manufacturer may ~~request~~ **apply for** a national type-approval of small series of a type of vehicle within the quantitative **annual** limits set out in Part 1 of Annex II. **These limits shall apply to the making available on the market, registration or entry into service of vehicles of the approved type on the market of each Member State in a given year.**

For ~~such an~~ **the national type-approval of small series,** the ~~national~~ **approval** authority may, if it has reasonable grounds to do so, waive one or more of the provisions of one or more of the **provisions of this Regulation and one or more of the provisions of one or more of the** acts listed in Annex I, provided that it ~~has laid down~~ **specifies** alternative requirements.

2. The alternative requirements referred to in paragraph 1 shall ensure a level of ~~road~~ **functional** safety; **and** environmental protection; and occupational safety which is equivalent to the greatest extent practicable to the level provided for by the relevant acts listed in Annex I.
3. For the ~~purpose of~~ **national** type-approval of vehicles under this Article, systems, components or separate technical units which are type-approved in accordance with the acts listed in Annex I shall be accepted.

4. The type-approval certificate **for vehicles type-approved in accordance with this Article shall be drafted in accordance with the template referred to in Article 16(2), but shall not bear the heading "EU vehicle type-approval certificate" and** shall specify the content of the waivers granted pursuant to paragraph 1. ~~For the purposes of this article, the type-approval certificate shall be drafted in accordance with the model set out in implementing legislation but shall not bear the heading "EU vehicle type-approval certificate".~~ Type-approval certificates shall be numbered in accordance with ~~this Regulation~~ **the harmonised system referred to in Article 15(4).**
5. The validity of ~~the~~ **a national** type-approval **of small series** shall be restricted to the territory of the Member State ~~the~~ **whose** approval authority ~~of which~~ granted the approval.
6. However, if **at the request of** the manufacturer ~~so requests~~, a copy of the type-approval certificate and its attachments shall be sent by registered mail or by electronic mail to the approval authorities of the Member States designated by the manufacturer.
7. Within ~~60 days~~ **three months** of receipt **of the request referred to in paragraph 6,** the approval authorities of the Member States designated by the manufacturer shall decide whether or not they accept the type-approval. They shall formally communicate ~~that~~ **their** decision to the approval authority ~~referred to in the first subparagraph~~ **which granted the national type-approval of small series.**
8. ~~A type-approval shall not be refused~~ **The approval authorities of the Member States shall accept the national type-approval** unless they **have** ~~approval authority~~ has reasonable grounds to believe that the technical provisions according to which the vehicle was approved are not equivalent to ~~its~~ **their** own.

9. ~~On~~ **At the** request of an applicant⁹³ who wishes to ~~sell,~~ **place on the market or** register or ~~put into service~~ a vehicle **with national type-approval of small series** in another Member State **than the one designated by the manufacturer,** the approval authority **of this Member State shall request the approval authority** that granted the **national type-approval of small series** shall **to** provide the applicant **national authority of the other Member State** with a copy of the type-approval certificate including the information package. ~~The national authority shall permit the sale, registration or entry into service of this vehicle unless it has reasonable grounds to believe that the technical provisions according to which the vehicle was approved are not equivalent to its own.~~ **Paragraphs 7 and 8 shall apply.**

⁹³ UK: replace by "an owner of a vehicle with a"

CHAPTER XI

INDIVIDUAL APPROVALS ⁹⁴

Article 29

Individual approvals

1. An application for individual approval shall be submitted by the manufacturer or by the owner of the vehicle. It may also be submitted by a person, established in the ~~Community~~ **Union**, acting on behalf of the ~~manufacturer or the~~ owner of the vehicle. **At the request of the owner of the vehicle or of a person acting on his behalf established in the Union, approval authorities shall grant an individual approval for a vehicle which conforms to the description appended to the application and complies with the provisions of this Regulation.**
2. In the individual approval procedure, approval authorities shall ~~certify~~ **verify** that the vehicle satisfies **complies with** the relevant ~~administrative provisions and technical requirements~~ **acts listed in Annex I.**
3. An individual approval shall apply to a particular vehicle, whether it is unique or not.
4. Applications for individual approval shall cover a maximum of 15⁹⁵ vehicles of the same type **per calendar year, per applicant and per Member State.**

⁹⁴ **DE, NL, UK**: general reservation on Chapter XI, on the necessity of individual approval for tractors.

⁹⁵ **NL**: scrutiny reservation.

4a. The approval authority shall grant the individual approval if the vehicle conforms to the description appended to the application and satisfies the applicable technical requirements and shall without delay issue the individual approval certificate.

The format of the individual approval certificate shall be based on the template of the EU type-approval certificate referred to in Article 16(2) and shall contain at least the information corresponding to the information of the certificate of conformity for the EU type-approved vehicles, thus allowing for the registration of the vehicle in accordance with Article 31(3) necessary to complete the application for registration provided for in Council Directive 1999/37/EC.

Individual approval certificates shall not bear the heading "EU vehicle approval". An individual approval certificate shall bear the vehicle identification number of the vehicle concerned.

5. This Article shall apply to vehicles which, at the time of the application for the individual approval, ~~had never obtained the administrative authorisation for the entry into service,~~ have not previously been placed on the market **or of which the entry into service has not yet taken place,** involving its identification and the issuing of a registration number, including temporary or short-term registrations or professional registration or ~~put into service~~ **have only been placed on the market,** or ~~had only been registered or put into service for less than six months.~~ **In the absence of a registration document, the competent authority shall refer to available documented evidence of date of manufacture or documented evidence of first purchase.**

Article 30

Exemptions for individual approvals

1. An approval authority may exempt ~~the vehicles~~ from compliance with **requirements laid down in** one or more of the acts listed in Annex I, provided that the approval authority imposes alternative requirements and has reasonable grounds for such exemption.

The alternative requirements ~~must~~ **shall** ensure a level of ~~road~~ **functional** safety, environmental protection and occupational safety which is equivalent to the greatest extent practicable to the level provided for by the relevant act listed in Annex I.

2. Approval authorities shall not carry out destructive tests. They shall use any relevant information provided by the applicant ~~establishing~~ **of an individual approval to establish** compliance with the alternative requirements.
3. ~~Approval authorities shall accept any system, component or separate technical unit EU type approval instead of the alternative requirements.~~
4. ~~The approval authority shall grant the individual approval if the vehicle conforms to the description appended to the application and satisfies the applicable technical requirements and shall without delay issue the individual approval certificate.~~

~~The format of the individual approval certificate shall be based on the template of the EU type approval certificate set out in Annex V and shall contain at least the information necessary to complete the application for registration provided for in Council Directive 1999/37/EC⁹⁶.~~

~~Individual approval certificates shall not bear the heading "EU vehicle approval". An individual approval certificate shall bear the vehicle identification number of the vehicle concerned. (see Article 29(4b))~~

⁹⁶ ~~OJ L 138, 1.6.1999, p. 57.~~

Article 31

Validity and acceptance of individual approval

1. The validity of an individual approval shall be restricted to the territory of the Member State in which it was granted.
2. ~~Where an applicant wishes to sell, register or put into service~~ **For the purpose of placing on the market, registration or entry into service** in another Member State **of** a vehicle which has been granted an individual approval, the approval authority that granted the approval shall, on request, provide the applicant **of an individual approval**⁹⁷ with a statement of the technical provisions against which the vehicle was approved and any additional information stating in detail the nature of the technical requirements satisfied by that particular vehicle.
3. With regard to a vehicle which has been granted an individual approval by an approval authority of one Member State **and registered** in accordance with the provisions of Article 29, the other Member States shall permit ~~that vehicle to be sold, registered or to enter into service~~ **the placing on the market, registration or entry into service of a vehicle** unless they have reasonable grounds to believe that the technical provisions against which the vehicle was approved are not equivalent to their own.
4. ~~At the request of the manufacturer or of the owner of the vehicle, approval authorities shall grant an individual approval to a vehicle which complies with the provisions of this Regulation,. In such a case, approval authorities shall accept the individual approval and shall permit the sale, registration and entry into service of the vehicle. (see Article 29)~~

⁹⁷ BE, FR: contradiction with para. 3. Use drafting of Directive 2007/46.

Article 32

Specific provisions concerning individual approvals

1. The provisions of this Chapter may apply to vehicles which have been type-approved in accordance with this Regulation and which have been modified before their ~~first~~ **placing on the market**, registration or entry into service.
2. The procedure set out in this Chapter may apply to a particular vehicle during the successive stages of its completion in accordance with a multi-stage type-approval procedure.
3. The procedure set out in this Chapter may not replace an intermediate stage within the normal sequence of a multi-stage type-approval procedure and may not apply for the purposes of obtaining the first-stage approval of a vehicle.

CHAPTER XII

MAKING AVAILABLE ON THE MARKET,⁹⁸ REGISTRATION, SALE AND OR ENTRY INTO SERVICE

Article 33

Making available on the market, ~~registration, sale and~~ **or** *entry into service of vehicles*

1. Without prejudice to the provisions of Articles 36 and 37, vehicles for which EU whole vehicle type-approval is mandatory or for which the manufacturer has obtained such type-approval under this Regulation shall only be **made available on the market,** registered, sold or **may** entered into service if they are accompanied by a valid certificate of conformity issued in accordance with Article 24.

In the case ~~where such~~ of incomplete vehicles **are incomplete,** the sale **making available on the market or entry into service** of such vehicles is permitted, but the competent authorities **responsible for vehicle registration** of the Member States may refuse **to allow** the permanent registration and entry into service **use on the road** of such vehicles ~~for such time as the vehicles remain incomplete.~~

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- ~~2. As regards small series vehicles, the number of vehicles, registered, sold or entered into service in the course of a single year shall not exceed the number of units set out in Part 1 of Annex II. (see Article 28(1))~~
3. Paragraph 1 shall not apply to vehicles intended for use by the armed forces **services,** **by** civil protection **defence,** fire-fighting or **services and forces responsible for maintaining** public order services or to vehicles type-approved in accordance with Articles 28 or 32 **29.**

⁹⁸ DE: delete "making available on the market" in all Articles in this Chapter.

⁹⁹ UK: add a new paragraph as follows : (MD T 7/12)

"Where a vehicle has undergone temporary or transit registration, this is not considered to satisfy the obligation in paragraph 1 to produce a certificate of conformity. Therefore a Member State receiving a vehicle which has not previously undergone permanent registration, may request the certificate of conformity."

Article 34

Making available on the market, registration, ~~sale and~~ or entry into service of end-of-series vehicles

1. Subject to the **end-of-series** limits **and** ~~set out in Part 2 of Annex II and to the time limit set out **specified** in paragraphs 2 **and 3a**,~~ vehicles conforming to a type of vehicle whose EU type-approval is no longer valid may **no longer** be **made available on the market,** registered, ~~sold and~~ **or** entered into service.

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 not **either** been **made available on the market,** registered or ~~put~~ **entered into** into service before that EU type-approval lost its validity.

2. Paragraph 1 shall apply, in the case of complete¹⁰⁰ vehicles, for a period of ~~twelve~~ **twenty-four** months from the date on which validity of the EU type-approval expired and, in the case of completed vehicles, for a period of ~~eighteen~~ **thirty** months from that date.
3. A manufacturer who wishes to benefit from the provisions of paragraph 1 shall submit a request to the ~~competent~~ **national** authority of each Member State **where the vehicles in question are either to be made available on the market, registered or are entering into service** ~~concerned by the entry into service of the vehicles in question.~~ That request ~~must~~ **shall** specify any technical or economic reasons preventing those vehicles from complying with the new ~~technical~~ **type-approval** requirements.

The ~~competent~~ **national** authorities concerned shall decide, within three months of receiving the request, whether and in what number to permit the registration of those vehicles within their territory.

¹⁰⁰ NL: what about incomplete vehicles, the same period should also apply to them too.

3a. The amount of end-of-series vehicles shall not exceed 10% of the number of vehicles registered in the two preceding years or 20 vehicles per Member State,¹⁰¹ whatever is the highest.

A special entry qualifying the vehicle as "end-of-series" shall be made on the certificate of conformity of the vehicles put into service under this procedure.

4. Member States shall ensure that the number of vehicles to be **made available on the market**, registered or ~~put~~ **entering** into service ~~in the framework of~~ **under** the procedure set out in this Article is effectively monitored.
5. This Article shall apply only to discontinuation due to termination of validity of the type-approval in the case referred to in Article 23(2)(a).

¹⁰¹ **BE**: set a limit for the Union.

Article 35

~~Sale and~~ **Making available on the market or** entry into service of components and separate technical units

1. Components or separate technical units may only be ~~sold and~~ **made available on the market or** entered into service if they comply with the requirements of the relevant acts listed in Annex ~~4~~ **I** and are properly marked in accordance with Article 25.
2. Paragraph 1 shall not apply in the case of components or separate technical units which are specifically constructed or designed for new vehicles not covered by this Regulation.
3. By way of derogation from paragraph 1, Member States may permit the ~~sale and~~ **making available on the market or** entry into service of components or separate technical units which have been exempted from one or more provisions of this Regulation ~~in application of~~ **under** Article 26 or are intended for mounting on vehicles covered by approvals granted under Articles 28 or 29 that concern the component or separate technical unit in question.
4. By way of derogation from paragraph 1, and unless otherwise provided for in this Regulation **or in one of its delegated acts**, Member States may permit the ~~sale and~~ **making available on the market or** entry into service of components or separate technical units which are intended for mounting on vehicles which, ~~at the time of their entry~~ **when made available on the market or entered** into service, were not required **to be type-approved** by this Regulation or by Directive 2003/37/EC ~~to be EU type approved~~.

CHAPTER XIII

SAFEGUARD CLAUSES ¹⁰²

Article 36

Procedures for dealing with ~~vehicles, systems, components or separate technical units in~~
~~compliance with this Regulation~~ **presenting a serious risk at national level**

1. ~~If a national authority finds that new vehicles, systems, components or separate technical units, albeit in compliance with the applicable requirements or properly marked, present a serious risk to road safety, seriously harm the environment or public health or, for tractors, present a serious risk to occupational safety, that national authority may, for a maximum period of six months, refuse to register such vehicles or to permit the sale or entry into service in its territory of such vehicles, components or separate technical units.~~

~~In such cases, the national authority concerned shall immediately notify the manufacturer, the national authorities of 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 any of the following:~~

- ~~(a) shortcomings in the relevant acts;~~
- ~~(b) incorrect application of the relevant requirements.~~

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

¹⁰² DE, ES, FR, IT: scrutiny reservation on the whole Chapter.

3. ~~Where the measures referred to in paragraph 1 are attributed to shortcomings in the relevant acts, the Commission shall take the following measures :~~
- ~~(a) where delegated acts are concerned, the Commission shall amend those acts accordingly;~~
 - ~~(b) where UNECE regulations are concerned, the Commission shall propose the necessary draft amendments to the relevant UNECE regulations in accordance with the procedure applicable under the Revised 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 necessary steps in order to ensure that the approval authority concerned complies with such requirements. The approval authorities of all Member States shall be informed about such steps.~~

1. Where the market surveillance authorities of one Member State have taken action pursuant to Article 20 of Regulation (EC) No 765/2008, or where they have sufficient reason to believe that a vehicle, system, component or separate technical unit covered by this Regulation presents a serious risk to the health or safety of persons or to other aspects of the protection of public interests covered by this Regulation, the approval authority that granted the approval shall carry out an evaluation in relation to the vehicle, system, component or separate technical unit concerned covering all the requirements laid down in this Regulation. The relevant economic operators shall cooperate fully with the market surveillance and/or approval authorities.

Where, in the course of that evaluation, the approval authority that granted the approval finds that the vehicle, system, component or separate technical unit does not comply with the requirements laid down in this Regulation, they shall without delay require the relevant economic operator to take all appropriate corrective action to bring the vehicle, system, component or separate technical unit into compliance with those requirements, to withdraw the vehicle, system, component or separate technical unit from the market, or to recall it within a reasonable period, commensurate with the nature of the risk.

The approval authority that granted the approval shall inform the relevant technical service of the measures taken in accordance with the first and second subparagraphs.

Article 21 of Regulation (EC) No 765/2008 shall apply to the measures referred to in the second subparagraph.

2. Where the approval authorities consider that non-conformity is not restricted to their national territory, they shall inform the Commission and the other Member States of the results of the evaluation and the action required of the economic operator.
3. The economic operator shall ensure that all appropriate corrective action is taken in respect of all non-compliant vehicles, systems, components or separate technical units that it has placed on the market, registered or is responsible for its entry into service in the Union.
4. Where the economic operator does not take adequate corrective action within the period referred to in the second subparagraph of paragraph 1, the national authorities shall take all appropriate measures to prohibit or restrict the making available on the market, registration or entry into service of non-compliant vehicles, systems, components or separate technical units on their national market, to withdraw them from that market or to recall them.

5. The national authorities shall inform the Commission and the other Member States, without delay, of those measures.

The information provided shall include all available details, in particular the data necessary for the identification of the non-compliant vehicle, system, component or separate technical unit, its origin, the nature of the non-conformity alleged and the risk involved, the nature and duration of the national measures taken, and the arguments put forward by the relevant economic operator. In particular, the approval authorities shall indicate whether the non-conformity is due to either of the following:

(a) failure of the vehicle, system, component or separate technical unit to meet requirements relating to the health or safety of persons, the protection of the environment or to other aspects of the protection of public interests covered by this Regulation;

(b) shortcomings in the relevant acts listed in Annex I.

6. Member States shall within one month inform the Commission and the other Member States of any measures adopted and of any additional information at their disposal relating to the non-conformity of the vehicle, system, component or separate technical unit concerned, and, in the event of disagreement with the notified national measure, of their objections.

7. Where, within one month of receipt of the information referred to in paragraph 6, no objection has been raised by either another Member State or the Commission in respect of a measure taken by a Member State, that measure shall be deemed justified.

8. Member States shall ensure that appropriate restrictive measures are taken in respect of the vehicle, system, component or separate technical unit concerned, such as withdrawal of the vehicle, system, component or separate technical unit from their market, without delay.

Article 36a
Union safeguard procedure

1. Where, during the procedure set out in paragraphs (3) and (4) of Article 36, objections are raised against a measure taken by a Member State, or where the Commission considers a national measure to be contrary to the Union legislation, the Commission shall without delay evaluate the national measure after consulting Member States and the relevant economic operator or operators. On the basis of the results of that evaluation, the Commission shall decide whether the national measure is justified or not.

The Commission shall communicate its decision to all Member States and to the relevant economic operator or operators.

2. If the national measure is considered justified, all Member States shall take the measures necessary to ensure that the non-compliant vehicle, system, component or separate technical unit is withdrawn from their market, and shall inform the Commission accordingly. If the national measure is considered unjustified, the Member State concerned shall withdraw the measure.

3. Where the national measure is considered justified and is attributed to shortcomings in this Regulation or in delegated or implementing acts adopted under this Regulation, the Commission shall propose appropriate measures as follows:

- (a) where delegated or implementing acts adopted under this Regulation are concerned, the Commission shall propose the necessary amendments to the act concerned;
- (b) where UNECE regulations are concerned, the Commission shall propose the necessary draft amendments to the relevant UNECE regulations in accordance with the procedure applicable under the Revised 1958 Agreement.

Article 36b

Compliant vehicles, systems, components or separate technical units that present a serious risk

1. Where, having performed an evaluation under Article 36(1), a Member State finds that vehicles, systems, components or separate technical units, although they comply with the applicable requirements or are properly marked, present a serious risk to safety or may seriously harm the environment or public health, it¹⁰³ shall require the relevant economic operator to take all appropriate measures to ensure that the vehicle, system, component or separate technical unit concerned, when placed on the market, registered or after its entry into service, no longer presents that risk, to withdraw the vehicle, system, component or separate technical unit from the market or to recall it within a reasonable period, commensurate with the nature of the risk. The Member State may refuse to register such vehicles as long as the vehicle manufacturer has not taken all these appropriate measures.
2. For a vehicle, system, component or separate technical unit as referred to in paragraph 1, the economic operator shall ensure that corrective action is taken in respect of all such vehicles, systems, components or separate technical units placed on the market, registered or entered into service in the Union.
3. The Member State shall within one month inform the Commission and the other Member States of all available details, in particular the data necessary for the identification of the vehicle, system, component or separate technical unit concerned, the origin and the supply chain of the vehicle, system, component or separate technical unit, the nature of the risk involved and the nature and duration of the national measures taken.

¹⁰³ FR: it is up to the initial type-approval authority to launch the recall procedure. Any type-approval authority would be allowed to stop the placing on the market of products which present a risk that could destabilise the market. Decision 768/2008 is not relevant here for *ex ante* type-approved products.

- 4. The Commission shall, without delay, consult the Member States and the relevant economic operator or operators and, in particular, the approval authority that granted the type-approval, and shall evaluate the national measure taken. On the basis of that evaluation, the Commission shall decide whether the national measure is justified or not, and where necessary, propose appropriate measures.**
- 5. The Commission shall address its decision to all Member States and shall immediately communicate it to them and the relevant economic operator or operators.**¹⁰⁴

Article 37

Vehicles, systems, components or separate technical units not in conformity with the approved type

1. ~~If~~ **Where** new vehicles, systems, components or separate technical units accompanied by a certificate of conformity or bearing an approval mark do not conform to the **approved** type ~~it has approved~~, the national **approval** authority which ~~has granted an~~ **the** EU type-approval shall take the necessary measures, including the withdrawal of type-approval, to ensure that ~~production~~ vehicles, ~~systems~~, components or separate technical units **in production**, as the case may be, are brought into conformity with the approved type. ~~It shall inform the approval authorities of the other Member States of the measures taken within 20 working days.~~
2. For the purposes of paragraph 1, deviations from the particulars in the EU type-approval certificate or the information package shall be deemed to constitute failure to conform to the approved type. ~~A vehicle shall not be deemed to deviate from the approved type where tolerances are permitted by the relevant regulatory acts and those tolerances are respected.~~

¹⁰⁴ DE, UK: Delete paragraphs (4) and (5) as they increase the time necessary for the procedure and legal uncertainty. Commission should not interfere with Member States' decisions. COM: experience in 2010 showed that EU action did not delay the process. There is a need for a harmonised enforcement in order to avoid loopholes and distortions in the Internal Market.

3. If ~~an national approval authority of another Member State~~ demonstrates that new vehicles, components or separate technical units accompanied by a certificate of conformity or bearing an approval mark **issued in another Member State** do not conform to the approved type, it may ask the ~~national~~ **approval** authority which granted the EU type-approval to verify that vehicles, systems, components or separate technical units in production continue to conform to the approved type. On receipt of such a request, the ~~national~~ **approval** authority which granted the EU type-approval shall take the requisite action as soon as possible and ~~in any case~~ **at the latest** within ~~60 working days~~ **three months** of the date of the request.
4. The approval authority shall request the ~~national~~ **approval** authority which granted the **EU type-approval for a** system, component, separate technical unit or incomplete vehicle ~~EU type-approval~~ to take the necessary actions to ensure that vehicles in production are brought back into conformity with the approved type in the following cases:
- (a) ~~in relation to~~ **for** an EU vehicle type-approval, where the non-conformity of a vehicle is attributable exclusively to the non-conformity of a system, component or separate technical unit;
 - (b) ~~in relation to~~ **for** a multi-stage type-approval, where the non-conformity of a completed vehicle is attributable exclusively to the non-conformity of a system, component or separate technical unit ~~being~~ **that forms** part of the incomplete vehicle or **to the non-conformity** of the incomplete vehicle itself.
- 4a.** On receipt of such a request, the ~~national~~ **approval** authority concerned shall take the necessary actions, if necessary in conjunction with the ~~Member State~~ **approval authority** making the request, as soon as possible and ~~in any case~~ **at the latest** within ~~60 working days~~ **three months** of the date of the request.
- 4b.** Where ~~a failure to conform~~ **non-conformity** is established, the approval authority of the Member State ~~which~~ **that** granted the **EU type-approval for the** system, component or separate technical unit ~~EU type-approval~~ or **for** the approval of the incomplete vehicle shall take the measures set out in paragraph 1.

5. The approval authorities shall inform each other within ~~20 working days~~ **one month** of any withdrawal of EU type-approval and of the reasons therefor.
6. If the ~~national~~ **approval** authority that granted **the** EU type-approval disputes the ~~failure to conform~~ **non-conformity** notified to it, the Member States concerned shall endeavour to settle the dispute. The Commission shall be kept informed and, where necessary, shall hold appropriate consultations with a view to reaching a settlement.

Article 38¹⁰⁵

Placing on the market and entry into service of parts and or equipment which that may pose a significant serious risk to the correct functioning of essential systems

1. ~~The sale, the offer for sale or entry into service of parts or equipment which are capable of posing a significant~~ **Parts or equipment that may pose a serious** risk to the correct functioning of systems that are essential for the safety of the vehicle or for its environmental performance **shall not be placed on the market, registered or enter into service and** shall be prohibited, unless they have been authorised by an approval authority in accordance with ~~paragraph 4 and~~ Article 39 paragraphs (1), **(1a)** and (2).

¹⁰⁵ CZ: scrutiny reservation on Articles 38 and 39. Stick rather to Articles 31 and 32 of Directive 2007/46/EC which are more clear. FR, IT, UK: support. IT: in particular keep Article 31(3).

- 1a.** The Commission shall ~~establish~~ **be empowered to adopt delegated acts in accordance with Article 57 concerning** a list of such parts or equipment ~~in accordance with the procedure referred to in Article 57~~ **covered by paragraph 1**, taking **into** account of available information on the following:
- (a) the seriousness of the risk to the safety or environmental performance of vehicles fitted with **the** parts and equipment ~~under consideration~~ **in question**;
 - (b) the effect on consumers and **after-market** manufacturers ~~in the after-market~~ of the imposition under this Article of a possible authorisation requirement ~~on~~ **for** parts ~~and~~ **or** equipment.
2. Paragraph 1 shall not apply to original parts ~~and~~ **or** equipment and to parts or equipment ~~which~~ **that** are type-approved in accordance with the provisions of one of the acts listed in Annex I, except where the approval relates to aspects other than those covered in paragraph 1.
- ~~3. The Commission shall be delegated powers to adopt, where appropriate, in accordance with Article 57, a delegated act identifying the parts and equipment referred to in the first subparagraph when placed on the market.~~
4. The list referred to in the second subparagraph of paragraph 1 may be updated and, to the extent necessary, **The Commission shall lay down** the model and numbering system ~~of~~ **for** the certificate referred to in paragraph 4 **Article 39(1) and (1a)** as well as **all** aspects relating to the procedure **referred to in that Article by means of implementing acts. Those implementing acts shall be adopted for the first time no later than 1 January 2013 in accordance with the examination procedure referred to in Article 55(2).**
- 4a.** **The Commission shall be empowered to adopt delegated acts in accordance with Article 57 concerning** the requirements which ~~such~~ **the** parts **and equipment referred to in paragraph 1** ~~must~~ **shall** fulfil, ~~the marking, packaging and the appropriate tests may be established in accordance with the procedure referred to in Article 57.~~

- 5- These requirements may be based on the acts listed in Annex I or may consist of a comparison of the parts or equipment with the **environmental or safety** performance of the original vehicle, or of any of its parts, as appropriate. In ~~those~~ **either** cases, the requirements ~~must~~ **shall** ensure that the parts or equipment do not impair the functioning of those systems that are essential for the safety of the vehicle or its environmental performance.

Article 39

*Parts ~~and or~~ equipment ~~which~~ **that may** pose a ~~significant~~ **serious** risk to the correct functioning of essential systems – related requirements*

1. For the purposes of ~~the first subparagraph of paragraph 1 of Article 38~~ **(1)**, the manufacturer of parts or equipment shall submit to the approval authority **an application accompanied by** a test report drafted by a designated technical service which certifies that the parts or equipment for which authorisation is sought comply with the requirements referred to in ~~paragraph 3~~ **Article 38(4a)**. The manufacturer may ~~introduce~~ **submit** only one application per type per part ~~with~~ **to** only one approval authority.

If so requested by the competent authority of another Member State, the approval authority which has given the authorisation shall, within one month of receiving that request, send to the former a copy of the requested authorisation certificate together with the attachments by means of a common secure electronic exchange system. The copy may also take the form of a secure electronic file.

- 1a.** The application shall include details ~~concerning~~ **of** the manufacturer of the parts or equipment, the type, identification and part numbers of the parts or equipment ~~for which authorisation is sought, as well as,~~ the vehicle manufacturer's name, type of vehicle and, if appropriate, years of construction or any other information permitting the identification of the vehicle ~~for~~ **to** which the fitting of such parts or equipment is intended **are to be fitted**.

When the approval authority is satisfied, taking account of the test report and other evidence, that the parts or equipment in question comply with the requirements referred to in ~~paragraph 3~~ **Article 38(4a)**, it shall issue a certificate to the manufacturer without delay. This certificate shall authorise the parts or equipment to be sold, offered for sale or fitted to vehicles in the Community **placed on the Union market and to be entered into service**, subject to the second subparagraph of paragraph 2.

The approval authority shall issue a certificate to the manufacturer without delay.

- 1b. The Commission shall be empowered to adopt an implementing act in order to lay down a template and numbering system for the certificate referred to in the third subparagraph of paragraph 1a as well as all aspects relating to the procedure of authorisation referred to in the present Article. That implementing act shall be adopted by in accordance with the examination procedure referred to in Article 55(2).**
2. The manufacturer shall inform without delay the approval authority that ~~issued the certificate~~ **gave the authorisation** of any change affecting the conditions under which it was **issued** delivered. That approval authority shall decide whether the ~~certificate~~ **authorisation** has to be reviewed or reissued and whether further tests are necessary.

The manufacturer shall be responsible for ensuring that the parts ~~and~~ **or** equipment are produced and continue to be produced under the conditions under which the ~~certificate~~ **authorisation** was issued.

3. Before delivering any authorisation, the approval authority shall verify the existence of satisfactory arrangements and procedures for ensuring effective control of the conformity of production.

Where the approval authority finds that the conditions for issuing the authorisation are no longer fulfilled, it shall request the manufacturer to take the necessary measures to ensure that the parts or equipment are brought back into conformity. If necessary, it shall withdraw the authorisation.

4. Approval authorities from different Member States shall bring any disagreement in relation to the ~~certificate~~ **authorisation** referred to in **the second subparagraph of paragraph 4 1a** to the attention of the Commission. The Commission shall take the appropriate measures in order to **re**solve the disagreement, including, where necessary, requiring the withdrawal of the authorisation, after having consulted the approval authorities.
5. ~~As long as the list referred to in the second subparagraph of paragraph 1~~ **Until the list referred to in Article 38(1a)** has ~~not~~ been established, Member States may maintain national provisions dealing with parts ~~and~~ **or** equipment which ~~are capable of~~ **may** affecting the correct functioning of systems ~~that are~~ essential for the safety of the vehicle or its environmental performance.

Article 40

Recall of vehicles, systems, components or separate technical units

1. Where a manufacturer who has been granted an EU whole-vehicle type-approval is obliged, in accordance with Regulation (EC) **No 765/2008**¹⁰⁶, to recall vehicles ~~already sold,~~ **placed on the market,** registered or **for which the manufacturer was responsible for the entry** put into service, because a system, component or separate technical unit fitted to the vehicle **presents a serious risk to safety, public health or environmental protection,** whether or not duly approved in accordance with this Regulation, or **because** a part ~~which is~~ not subject to any specific requirements under type-approval legislation presents a serious risk to ~~road~~ safety, ~~occupational safety,~~ public health or environmental protection, that manufacturer shall immediately inform the approval authority that granted the vehicle approval thereof.

1a. Where a manufacturer of systems, components or separate technical units, who has been granted an EU type-approval is obliged, in accordance with Regulation (EC) No 765/2008, to recall systems, components or separate technical units which have been placed on the market or for which the manufacturer was responsible for the entry into service, because these present a serious risk to safety, occupational safety, public health or environmental protection, whether or not duly approved in accordance with this Regulation, the manufacturer shall immediately inform the approval authority that granted the approval.

2. The manufacturer shall propose to the approval authority a set of appropriate remedies to neutralise the **serious** risk referred to in paragraphs **1 and 1a**. The approval authority shall communicate the proposed ~~measures~~ **remedies** to the approval authorities of the other Member States without delay.

The approval authorities shall ensure that the ~~measures~~ **remedies** are effectively implemented in their respective territories.¹⁰⁷

¹⁰⁶ OJ L 218 of 13.8.2008, p. 30.

¹⁰⁷ DE: on paragraphs (2) and (3) : the responsibilities of type-approval and market surveillance authorities need to be clarified; type-approval authorities should not do market surveillance.
FR, IT: these are the provisions of Directive 2007/46 where initial type-approval authorities have a focal role.

3. If the ~~measures~~ **remedies** are considered to be insufficient ~~by the approval authority concerned~~ or have not been implemented quickly enough, it shall inform the approval authority that granted the EU vehicle **EU** type-approval without delay.

The approval authority that granted the EU ~~vehicle~~ type-approval shall then inform the manufacturer. If the manufacturer does not propose and implement effective corrective measures, the approval authority which granted the EU type-approval shall take all protective measures required, including the withdrawal of the EU ~~vehicle~~ type-approval. In **the** case of withdrawal of the EU ~~vehicle~~ type-approval, the approval authority shall notify **thereof** the manufacturer, the approval authorities of the other Member States and the Commission by registered letter or equivalent electronic means within ~~20 working days~~ **one month**.

Article 41

Notification of decisions and remedies available

- 1.** All decisions taken pursuant to the provisions of this Regulation and all decisions refusing or withdrawing EU type-approval, or refusing registration, ~~or prohibiting~~ **or restricting** sales **the placing on the market, registration or entry into service requiring withdrawal from the market**, shall state in detail the reasons on which they are based.
- 2.** Any such decision shall be notified to the party concerned who shall, at the same time, be informed of the remedies available to ~~him~~ **it** under the laws in force in the Member State concerned and of the time limits allowed for the exercise of such remedies.

CHAPTER XIV

INTERNATIONAL REGULATIONS

Article 42

UNECE regulations required for EU type-approval

1. UNECE regulations **or amendments thereto** to which the Union has ~~acceded~~ **voted in favour of** and which are listed in Annex I **to this Regulation** shall be part of the **requirements for the** EU type-approval of a vehicle ~~in the same way as the delegated acts under this Regulations. They shall apply to the categories of vehicles listed in the relevant columns in the table of Annex I.~~
- 1a. The approval authorities of the Member States shall accept approvals granted in accordance with those UNECE regulations and, where applicable, the relevant approval marks, in place of the corresponding approvals and approval marks granted in accordance with this Regulation and its delegated acts.**
2. When the Union has ~~decided to apply on a compulsory basis~~ **voted in favour of** a UNECE regulation **or amendments thereto** for the purpose of EU vehicle type-approval, **the Commission shall adopt a delegated act¹⁰⁸ in accordance with Article 57 in order to make the UNECE regulation or its amendments compulsory, as appropriate** ~~in accordance with Article 4(4) of Council Decision 97/836/EC¹⁰⁹, the Annexes to this Regulation shall be amended as appropriate in accordance with the procedure referred to in Article 56(2).~~

¹⁰⁸ UK: the Commission must not amend Annex I by delegated acts, only with the ordinary legislative procedure. COM: delegated acts will be used to make references to UNECE regulations.

¹⁰⁹ ~~OJ L 346, 17.12.1997, p. 78.~~

That ~~the delegated~~ act amending the Annexes to this Regulation shall specify the dates of compulsory application of the UNECE regulation or of its amendments and shall include transitional provisions where appropriate.

[The Commission shall adopt separate delegated acts reflecting the accession to the mandatory application of UNECE regulations or the adoption of amendments thereto.]¹¹⁰

*Article 43*¹¹¹

Equivalence of UNECE regulations and with EU Union legislation type approval of vehicles produced in small series

1. The UNECE regulations listed in Annex I to this Regulation shall be considered as equivalent to the corresponding provisions of this Regulation and its delegated acts in as much as they share the same scope and subject matter.
2. The approval authorities of the Member States shall accept approvals granted in accordance with those UNECE regulations and, where applicable, the pertaining relevant approval marks, in lieu of the corresponding approvals and approval marks granted in accordance with this Regulation and its corresponding delegated acts.
3. Where the Community Union has decided to apply, for the purposes of paragraph 1, a new UNECE regulation or a UNECE regulation as amended, the Commission shall be empowered to adopt delegated acts in accordance with Article 57 concerning the amendment of Annex I to this Regulation or of the delegated acts shall be amended as appropriate, in accordance with the procedure referred to in Article 56(2).

¹¹⁰ To be checked by Legal Service whether this subparagraph is necessary.

¹¹¹ This Article is deleted as superfluous. Parts of it are included in Article 42.

Article 44

Equivalence with other regulations

Recognition of OECD test reports for the purpose of EU type-approval¹¹²

1. ~~The Council may, acting by qualified majority on a proposal from the Commission, recognise the equivalence between the conditions or provisions for EU type approval of systems, components and separate technical units established by this Regulation and the procedures established by international Regulations of third countries, in the framework of multilateral or bilateral agreements between the Community and third countries.~~
2. ~~The complete test reports issued on the basis of the standardised OECD Codes listed in Annex I, approved according to the general rules of OECD, may be used as an alternative~~¹¹³
~~to the test reports drawn up under this Regulation or the separate Regulations.~~

Where reference to OECD Codes is made in delegated acts under this Regulation, EU type-approval shall be based on the complete test report issued on the basis of the OECD standard Codes and the conformity of production arrangements in accordance with Article 19 of this Regulation.

In order to be acceptable for the purposes of EU type-approval, the OECD test report referred to in the first subparagraph must have been approved in accordance with Appendix 1 to the Decision of the OECD Council revising the OECD standard Codes for the official testing of agricultural and forestry tractors of February 2012¹¹⁴.

Each component approved on the basis of an OECD test report in accordance with this Article shall be marked in accordance with the labelling prescriptions of the applicable OECD Code.

¹¹² BG, ES, IT: reservation on how to use OECD Codes.

¹¹³ IT: reference to such an alternative is necessary. BG, ES: support.

¹¹⁴ Published on the website of the OECD -
http://www.oecd.org/document/10/0,2340,en_2649_201185_34735882_1_1_1_1,00.html

CHAPTER XV

PROVISION OF TECHNICAL INFORMATION

Article 45

Information intended for users

1. The manufacturer may not supply any technical information related to the particulars provided for in this Regulation, its implementing acts or delegated acts listed in Annex I which diverges from the particulars approved by the approval authority.
2. Where an implementing or delegated act listed in Annex I so provides, the manufacturer shall make available to users all relevant information and necessary instructions describing any special conditions or restrictions linked to the use of a vehicle, a **system**, component or a separate technical unit.

The ~~at~~ information **referred to in paragraph 2** shall be supplied in the official languages of the Member State where the vehicle is to be sold **placed on the market, registered or is to be entering into service**. It shall be provided, after acceptance by the approval authority, in the owner's manual.

Article 46

Information intended for manufacturers of components or separate technical units

1. The vehicle manufacturer shall make available to the manufacturers of components or separate technical units all particulars which are necessary for EU type-approval of components or separate technical units, or ~~necessary~~ to obtain an authorisation under Article 38 including, where applicable, drawings ~~listed~~ **referred to** in the delegated acts listed in Annex I.

The vehicle manufacturer may impose a binding agreement on the manufacturers of components or separate technical units to protect the confidentiality of any information which is not in the public domain, including information related to intellectual property rights.

2. The manufacturer of components or separate technical units, in ~~his~~ **its** capacity as the holder of an EU type-approval certificate which, in accordance with Article 17(4), includes restrictions on use or special mounting conditions or both, shall provide all the detailed information thereon to the vehicle manufacturer.

Where a delegated act listed in Annex I so provides, the manufacturer of components or separate technical units shall provide, together with the components or separate technical units produced, instructions regarding restrictions on use or special mounting conditions or both.

CHAPTER XVI

ACCESS TO ~~VEHICLE~~ REPAIR AND MAINTENANCE INFORMATION

Article 47

~~Vehicle m~~Manufacturers' obligations

1. Manufacturers shall provide **non-discriminatory** ~~unrestricted and standardised~~ access to vehicle repair and maintenance information to **authorised dealers, repairers,** independent operators through websites **using a standardised format** in a readily accessible and prompt manner. ~~In particular, this access should be granted in a manner which is non-discriminatory compared to the provision given or access granted to authorised dealers and repairers.~~

Software critical to the correct functioning of safety and environmental control system may be protected against unauthorised manipulations. However, any manipulation of these system necessary for repair and maintenance or accessible to authorised dealers or repairers shall also be made accessible to independent operators in a non-discriminatory manner.

~~This information shall include information required for fitting parts or equipment on vehicles.~~

- 1a. Until the Commission has adopted a standardised format for the provision of the information referred to in paragraph 1, that information shall be made available in a consistent manner that can be processed by independent operators with reasonable effort.**

2. Manufacturers shall ~~make~~ **provide access on a non-discriminatory basis to** training material **and relevant working tools** available to independent operators and authorised dealers, and repairers **and independent operators**. **This access shall include, where applicable, adequate training with regard to the download of software, the diagnostic trouble codes management and the use of working tools.**
3. **Without prejudice to the provisions of paragraph 1, t**The information referred to **there** in ~~paragraph 1~~ shall include as a minimum all of the following:
- (-a) the tractor type and model;**
- (a) ~~the~~ **an** unequivocal vehicle identification number;
 - (b) service handbooks including repair and maintenance records;
 - (c) technical manuals;
 - (d) component and diagnosis information (such as minimum and maximum theoretical values for measurements);
 - (e) wiring diagrams;
 - (f) diagnostic trouble codes, including manufacturer specific codes;
 - (g) ~~the software~~ **identification and** ~~calibration identification~~ **verification** numbers ~~applicable to a vehicle type;~~ **all information needed to install new or updated software on a new vehicle or vehicle type (e.g. software part number);**
 - (h) information ~~provided~~ concerning, and delivered by means of, proprietary tools and equipment;
 - (i) data record information, **test data and any other technical information (such as** ~~and two-directional monitoring and test data,~~ **if applicable to the technology used);**

(j) **standard** work units **or time periods for repair and maintenance tasks if made available, either directly or through a third party, to manufacturers' authorised dealers and repairers.**

4. Authorised dealers or repairers within the distribution system of a given vehicle manufacturer shall be regarded as independent operators for the purposes of this Regulation to the extent that they provide repair or maintenance services for vehicles in respect of which they are not members of the vehicle manufacturer's distribution system.
5. The vehicle repair and maintenance information shall always be available, except as required for maintenance purposes of the information system.
6. For the purposes of manufacture and servicing of OBD-compatible replacement or service parts and diagnostic tools and test equipment, manufacturers shall provide the relevant OBD and vehicle repair and maintenance information on a non-discriminatory basis to any interested **manufacturer or repairer of** component, diagnostic tools or test equipment ~~manufacturer or repairer.~~
7. For the purposes of ~~the~~ design and manufacture of automotive equipment for alternative-fuel ~~tractors~~ **vehicles**, manufacturers shall provide the relevant OBD and vehicle repair and maintenance information on a non-discriminatory basis to any interested manufacturer, installer or repairer of equipment for alternative-fuel vehicles.
8. When applying for EU type-approval or national ~~type~~-approval, the manufacturer shall provide the approval authority with proof of compliance with this Regulation relating to the information required in this Article.

In the event that such information is not available, or does not conform to this Regulation and its **delegated and** implementing ~~measures~~ **acts adopted pursuant to this Regulation,** **when applying for EU type-approval or national approval** ~~at that point in time,~~ the manufacturer shall provide it within six months from the date of ~~type~~-approval.

The Commission shall be empowered to adopt an implementing act in order to lay down a template of a certificate on access to vehicle OBD and vehicle repair and maintenance information providing such proof of compliance to the type approval authority. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 55(2).

9. If such proof of compliance is not provided within ~~that~~ the period referred to in the second subparagraph of paragraph 8, the approval authority shall take appropriate measures to ensure compliance.
10. The manufacturer shall make subsequent amendments and supplements to vehicle repair and maintenance information available on its websites at the same time they are made available to authorised repairers.
11. Where repair and maintenance records of a vehicle are kept in a central database of the vehicle manufacturer or on its behalf, independent repairers shall have access ~~free of charge~~ to such records free of charge and shall be able to enter information on repair and maintenance which they have performed.
12. The Commission shall be ~~delegated powers~~ empowered to adopt delegated acts in accordance with Article 57 ~~a delegated act~~ laying down the ~~detailed~~ details of the requirements with regard to access to repair and maintenance information, in particular technical specifications relating to the way in which vehicle repair and maintenance information shall be provided.
- 13. The Commission shall, by means of the delegated act referred to in paragraph 12, adapt the information requirements laid down in this Article, including the technical specifications relating to the way in which information shall be provided, in order to be proportionate having regard in particular to the specific case of manufacturer's relatively small production volume of the vehicle type concerned. In duly justified cases, such adaptation may result in an exemption from the requirement to supply the information in a standardised format. A possible adaptation or exemption shall in any event ensure that the objectives of this Article can be achieved.**

Article 48

~~Division of~~ Obligations with regard to several holders of type-approval **holders**

In **the** case of ~~step-by-step type-approval, including multi-stage type-approval,~~¹¹⁵ the manufacturer responsible for the respective type-approval shall also be responsible for communicating repair information relating to the particular system, component, separate technical unit or **to** the particular stage to both the final manufacturer and independent operators.

The final manufacturer shall be responsible for ~~communicating~~ **providing** information about the whole vehicle to independent operators.

Article 49

Fees for access to vehicle repair and maintenance information

1. Manufacturers may charge reasonable and proportionate fees for access to vehicle repair and maintenance information covered by this Regulation. **A fee shall not be considered reasonable or proportionate if it discourages access by failing to take into account the extent to which the independent operator uses it.**
2. ~~A fee shall not be reasonable or proportionate if it discourages access by failing to take into account the extent to which the independent operator uses it.~~ Manufacturers shall make available vehicle repair and maintenance information on a daily, monthly, and yearly basis, with fees for access to such information varying in accordance with the respective periods of time for which access is granted.

¹¹⁵ AT: proposes to modify the beginning of this paragraph as follows:
"In the case of step-by-step type-approval, mixed type-approval and multistage type-approval,"

Article 50

~~Penalties~~¹¹⁶ Forum on Access to Vehicle Information

1. ~~Member States shall lay down the provisions on penalties applicable for infringement by manufacturers of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify those provisions to the Commission by [6 months after publication of this Regulation] and shall notify it without delay of any subsequent amendment affecting them.~~
2. ~~The types of infringements which are subject to a penalty shall include:~~
 - (a) ~~making false declarations during the approval procedures or procedures leading to a recall;~~
 - (b) ~~falsifying test results for type approval or in-service conformity;~~
 - (c) ~~withholding data or technical specifications which could lead to recall or withdrawal of type approval;~~
 - (d) ~~use of defeat devices;~~
 - (e) ~~refusal to provide access to information.~~

The scope of application of the activities carried out by the Forum on Access to Vehicle Information established in accordance with Article 13(9) of Commission Regulation (EC) No 692/2008¹¹⁷ shall be extended to the vehicles covered by this Regulation.

On the basis of evidence of deliberate or unintentional misuse of vehicle OBD and vehicle repair and maintenance information, the Forum shall advise the Commission on measures to prevent such misuse of information.

¹¹⁶ *Moved to Article 59a*

¹¹⁷ **OJ L 199, 28.7.2008, p.1**

DESIGNATION AND NOTIFICATION OF TECHNICAL SERVICES

Article 50a

Requirements relating to technical services

1. For the purposes of designation pursuant to Article 51 and notification pursuant to Article 53, technical services shall meet the requirements laid down in paragraphs 2 to 11 of this Article.
2. Without prejudice to Article 51(1), a technical service shall be established under the national law of a Member State and have legal personality.
3. A technical service shall be a third-party body independent of the process of design, manufacturing, provision, assembly, use or maintenance of vehicle, system, component or separate technical unit it assesses.

A body belonging to a business association or professional federation representing undertakings involved in the design, manufacturing, provision, assembly, use or maintenance of vehicles, systems, components or separate technical units which it assesses, tests or inspects may, on condition that its independence and the absence of any conflict of interest are demonstrated, be considered as fulfilling the requirements of the first subparagraph.

¹¹⁸ AT, CZ, DE, ES, FR, IT, NL: reservation on the whole Chapter. Only Articles 51, 52 and 53 should remain and be aligned to Articles 41, 42 and 43 of Directive 2007/46/EC. DE: provisions of Directive 2007/46 could be strengthened. New Legislative Framework is not designed for technical services, but for notified bodies in the CE marking area. ES: see MD T 14/11. COM: adding Decision 768/2008 market surveillance mechanisms to Directive 2007/46/EC procedures aims at reinforcing market surveillance.

- 4. A technical service, its top-level management and the personnel responsible for carrying out the assessment tasks may not be the designer, manufacturer, supplier, installer, purchaser, owner, user or maintainer of the vehicles, systems, components or separate technical units which they assess, nor the authorised representative of any of those parties. This shall not preclude the use of assessed vehicles, systems, components or separate technical units that are necessary for the operation of the technical service or the use of such vehicles, systems, components or separate technical units for personal purposes.**

A technical service, its top-level management and the personnel responsible for carrying out the assessment, testing or inspection tasks may not be directly involved in the design, manufacture or construction, marketing, installation, use or maintenance of those vehicles, systems, components or separate technical units, or represent the parties engaged in those activities. They may not engage in any activity that may conflict with their independence of judgment or integrity in relation to the assessment activities for which they are notified. This shall in particular apply to consultancy services.

Technical services shall ensure that the activities of their subsidiaries or subcontractors do not affect the confidentiality, objectivity or impartiality of their conformity assessment activities.

- 5. Technical services and their personnel shall carry out the assessment activities with the highest degree of professional integrity and the requisite technical competence in the specific field and shall be free from all pressures and inducements, particularly financial, which might influence their judgment or the results of their assessment activities, especially such pressures or inducements emanating from persons or groups of persons with an interest in the results of those activities.**
- 6. Technical services shall be capable of carrying out all the conformity assessment tasks assigned to them and for which they have been notified, whether those tasks are carried out by the technical service itself or on its behalf and under its responsibility.**

- 7. At all times and for each assessment task and each kind or category of vehicles, systems, components or separate technical units for which it has been notified, technical services shall have at its disposal the following:**
- (a) personnel with technical knowledge and sufficient and appropriate experience to perform the assessment task;**
 - (b) descriptions of the procedures for the assessment task, ensuring the transparency and reproducibility of those procedures, whereby the technical service shall have appropriate policies and procedures as well as appropriate policies and procedures in place that distinguish between tasks it carries out as a technical service and other activities;**
 - (c) procedures for the performance of their activities in the area of type-approval and conformity of production which take due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the technology of the vehicle, system, component or separate technical unit in question, and the mass or serial nature of the production process.**
- 8. Technical services shall have the means necessary to perform the technical and administrative tasks connected with the conformity assessment activities in an appropriate manner and shall have access to all necessary equipment or facilities.**
- 9. The personnel responsible for carrying out conformity assessment activities shall have the following:**
- (a) sound technical and vocational training covering all the conformity assessment activities for which the technical service has been notified;**
 - (b) satisfactory knowledge of the requirements of the assessments they carry out and adequate authority to carry out those assessments;**

(c) appropriate knowledge and understanding of the safety and environmental requirements and other relevant provisions of this Regulation and the acts listed in Annex II;

(d) the ability to draw up certificates, records and reports demonstrating that assessments have been carried out.

10. The impartiality of the technical services, their top-level management and the assessment personnel shall be guaranteed.

11. The remuneration of the top-level management and assessment personnel of a technical service shall not depend on the number of assessments carried out or on the results of those assessments.

12. Technical services shall take out liability insurance unless liability is assumed by the Member State in accordance with national law, or the Member State itself is directly responsible for the conformity assessment.

13. The personnel of a technical service shall observe professional secrecy with regard to all information obtained in carrying out their tasks under this Regulation or any provision of national law giving effect to it, except in relation to the competent authorities of the Member State where the technical service is carrying out its activities or where the type-approval has been issued. Proprietary rights shall be protected.

Article 50b

Subsidiaries of and subcontracting by technical services

- 1. Technical services may subcontract some of their activities or have these activities carried out by a subsidiary only with the agreement of their designating approval authority.**
- 2. Where a technical service subcontracts specific tasks connected with conformity assessment or has recourse to a subsidiary, it shall ensure that the subcontractor or the subsidiary meets the requirements set out in Article 50a and shall inform the designating approval authority accordingly.**
- 3. Technical services shall take full responsibility for the tasks performed by any subcontractors or subsidiaries, wherever these are established.**
- 4. Technical services shall keep at the disposal of the designating approval authority the relevant documents concerning the assessment of the qualifications of the subcontractor or the subsidiary and the work carried out by them under this Regulation.**

Article 51

*Designation of technical services*¹¹⁹

1. Technical services designated by ~~national~~ **approval** authorities for the purposes of this Article shall comply with the provisions of this Regulation.
2. ~~The~~ **T**echnical services shall carry out themselves or supervise the tests required for approval or inspections **as** set out in this Regulation or in one of the acts listed in Annex I, except where alternative procedures are permitted. The technical services may not conduct tests or inspections for which they have not been duly designated.

¹¹⁹ ES: align to the wording of Article 41 of Directive 2007/46/EC (see MD T22/11).

3. ~~The~~**T**echnical services shall fall into one or more of the five following categories of activities, depending on their field of competence:
- (a) category A, technical services which carry out in their own facilities the tests referred to in this Regulation and in the acts listed in Annex I;
 - (b) category B, technical services which supervise the tests referred to in this Regulation and in the acts listed in Annex I, **where such tests are** performed in the manufacturer's facilities or in the facilities of a third party;
 - (c) category C, technical services which assess and monitor on a regular basis the manufacturer's procedures for controlling conformity of production;
 - (d) category D, technical services which supervise or perform tests or inspections ~~in the framework of~~ **for** the surveillance of conformity of production;
 - (e) category E, technical services in charge of individual approvals.¹²⁰
4. Technical services shall demonstrate appropriate skills, specific technical knowledge and proven experience in the specific fields covered by this Regulation and the acts listed in Annex I. **In addition**, technical services shall comply with the standards ~~set up~~ **laid down** in the delegated act **referred to in Article 51b** which are relevant for the activities they carry out. However, such compliance is not required for the purposes of the last stage of a multi-stage type-approval ~~procedure as referred to in Article 32(1)~~.
5. An approval authority may be designated as a technical service for one or more of the activities referred to in paragraph 3.
- ~~6. A manufacturer or a subcontracting party acting on his behalf may only be designated as a technical service for category A activities with regard to the technical requirements for which self-testing is allowed in a delegated act adopted under this Regulation.~~

¹²⁰ ES: (e) is not necessary as it is included in (a) and (b). AT, NL: keep (e).

7. Technical services of a third country, other than those designated in accordance with paragraph 6, of a third country Article 51a, may be notified for the purposes of Article 53 only in the framework of if such an acceptance of technical services is provided for by a bilateral agreement between the Union and the third country ~~in question~~ concerned .
8. ~~The Commission shall be delegated powers to adopt in accordance with Article 57 a delegated act laying down the standards with which the technical services have to comply and the procedure for the assessment of technical services in order to ensure that these services meet the same high level of performance standards in all Member States.~~

Article 51a

Accredited in-house technical services of the manufacturer

1. An accredited in-house technical service of a manufacturer may be used to carry out assessment activities for the undertaking of which it forms part only for category A activities with regard to technical requirements for which self-testing is allowed by a delegated act adopted under this Regulation. That technical service shall constitute a separate and distinct part of the undertaking and shall not be involved in the design, production, supply, installation or maintenance of the vehicles, systems, components or separate technical units it assesses.
2. An accredited in-house technical service shall meet the following requirements:
 - (a) it shall be accredited in accordance with Article 51b;
 - (b) the accredited in-house technical service and its personnel shall be organisationally identifiable and have reporting methods within the undertaking of which they form part which ensure their impartiality and demonstrate it to the relevant national accreditation body;
 - (c) neither the accredited in-house technical service nor its personnel shall be responsible for the design, manufacture, supply, installation, operation or maintenance of the vehicles, systems, components or separate technical units they assess nor shall they engage in any activity that might conflict with their independence of judgment or integrity in relation to their assessment activities;
 - (d) the accredited in-house technical service shall supply its services exclusively to the undertaking of which it forms part.
3. An accredited in-house technical service shall not be notified to the Member States or the Commission, for the purposes of Article 53 but information concerning its accreditation shall be given by the undertaking of which it forms part or by the national accreditation body to the notifying authority at the request of that authority.

Article 51b

Procedures for performance standards and assessment of technical services

In order to ensure that these services meet the same high level of performance standards in all Member States, the Commission shall be empowered to adopt delegated acts in accordance with Article 57 concerning the standards with which the technical services have to comply and the procedure for the assessment of technical services.

Article 52

*Assessment of the skills of the technical services*¹²¹

1. ~~The skills referred to in Article 51 shall be demonstrated by an assessment report established by a competent authority. This may include a certificate of accreditation issued by an accreditation body.~~ **The competent authority shall draw up an assessment report demonstrating that the candidate technical service has been assessed for its compliance with the requirements of this Regulation and the delegated acts adopted under this Regulation.**
2. The assessment on which the report referred to in paragraph 1 is based shall be conducted in accordance with the provisions laid down in a delegated act **referred to in Article 51b** ~~in accordance with Article 51 (8) under this Regulation.~~ The assessment report shall be reviewed after a maximum period of three years.

¹²¹ ES: align to the wording of Article 42 of Directive 2007/46/EC (see MD T22/11).

3. The assessment report shall be communicated to the Commission upon request . **In such cases, where the assessment is not based on an accreditation certificate issued by a national accreditation body attesting that the technical service fulfils the requirements of this Regulation, the notifying authority shall provide the Commission¹²² and the other Member States with documentary evidence which attests the technical service's competence and the arrangements in place to ensure that the technical service is monitored regularly and satisfies the requirements of this Regulation and its delegated acts.**
4. The approval authority ~~which~~ **that** intends to be designated as a technical service shall demonstrate compliance through documentary evidence. This ~~documentary evidence may consist in~~ **shall include** an assessment conducted by auditors independent of the activity being assessed. Such auditors may be from ~~within~~ the same organisation provided that they are managed ~~autonomously~~ **separately** from personnel undertaking the assessed activity.
5. ~~A manufacturer or a subcontracting party acting on his behalf~~ **An accredited in-house** ~~designated as a technical service~~ shall comply with the relevant provisions of this Article.

Article 53

Procedures for notification¹²³

1. Member States shall notify to the Commission the name, the address including electronic address, the responsible persons and the category of activities ~~with respect to~~ **for** each designated technical service. ~~They shall notify it of~~ **as well as** any subsequent modifications thereto. The notification act shall state ~~in respect of~~ **for** which subjects listed in Annex I the technical services have been designated.

¹²² DE: delete.

¹²³ ES: align to the wording of Article 43 of Directive 2007/46/EC (see MD T22/11).

2. A technical service may conduct the activities referred to in Article 50 **51(3)** for the purposes of type-approval for the Member State which designated it only if it has been notified beforehand to the Commission **and where no objections are raised by the Commission or the other Member States within two weeks of a notification where an accreditation certificate is used or within two months of a notification where an accreditation certificate is not used.**
3. The same technical service may be designated and notified by several Member States irrespective of the category of activities ~~which~~ it conducts¹²⁴.
- 3a. The Commission and the other Member States shall be notified of any subsequent relevant changes to the notification.**
4. Where a specific organisation or competent body, ~~the~~ **carrying out an** activity ~~of which is not included in~~ **not included in** those referred to in Article 51**(3)**, needs to be designated in application of an act listed in Annex I the notification shall be made in accordance with ~~the provisions of~~ this Article.
5. The Commission shall publish on its web-site a list and details **regarding of** the approval ~~authorities and~~ technical services.

¹²⁴ **ES:** add "provided that such technical service has been previously designated by the Member State where it has its main headquarters" (MD T03/10).
LU: supports and requests to add a new subparagraph :
 "A technical service designated by the Member State where this technical service has its main headquarters may be nominated as technical service by another Member State as well, such nomination in a third Member State being however only allowed when, as long as, the nomination of the technical service concerned in its headquarters' Member State remains applicable and valid." (MD T05/10).

Article 53a

Changes to designations

1. Where a notifying Member State has ascertained or has been informed that a technical service no longer meets the requirements laid down in this Regulation, or that it is failing to fulfil its obligations, the notifying Member State shall restrict, suspend or withdraw designation as appropriate, depending on the seriousness of the failure to meet those requirements or fulfil those obligations. The notifying Member State shall immediately inform the Commission and the other Member States accordingly.¹²⁵ The Commission shall modify accordingly the information published referred to in Article 53(5).
2. In the event of restriction, suspension or withdrawal of designation, or where the technical service has ceased its activity, the notifying Member State shall take appropriate steps to ensure that the files of that technical service are either processed by another technical service or kept available for the competent notifying and market surveillance authorities at their request.¹²⁶

Article 53b

Challenge to the competence of technical services

1. The Commission shall investigate all cases where it doubts, or doubt is brought to its attention, regarding the competence of a technical service or the continued fulfilment by a technical service of the requirements and responsibilities to which it is subject.
2. The notifying Member State shall provide the Commission, on request, with all information relating to the basis for the designation or the maintenance of the competence of the technical service concerned.

¹²⁵ ES: in this paragraph replace "notifying Member State" by "approval authority" (MD T22/11).

¹²⁶ ES: in this paragraph replace "notifying Member State" by "appointing Member State" (MD T22/11).

3. The Commission shall ensure that all sensitive information obtained in the course of its investigations is treated confidentially.
4. Where the Commission ascertains that a technical service does not meet or no longer meets the requirements for its designation, it shall inform the notifying Member State accordingly and request it to take the necessary corrective measures, including the withdrawal of the designation if necessary.

Article 53c

Operational obligations of technical services¹²⁷

1. Technical services shall carry out conformity assessments in accordance with the assessment procedures provided for in this Regulation.
- 1a. Technical services shall at all times allow their designating approval authority to witness the technical service during the conformity assessment as appropriate.
2. Conformity assessments shall be carried out in a proportionate manner, avoiding unnecessary burdens for economic operators. Technical services shall perform their activities taking due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the technology of the vehicle, system, component or separate technical unit in question and the mass or serial nature of the production process.
3. When carrying out conformity assessment, technical services shall nevertheless respect the degree of rigour and the level of protection required for the compliance of the vehicle, system, component or separate technical unit with the provisions of this Regulation.

¹²⁷ ES: modify the title as follows : "Operational obligations of technical services of conformity of production" Add "conformity of production" also in paragraphs 5 and 6. (MD T22/11)

4. Where a technical service finds¹²⁸ that requirements laid down in this Regulation have not been met by a manufacturer, it shall report this to the type-approval authority with a view to require the manufacturer to take appropriate corrective measures and subsequently not to issue a type-approval certificate unless the appropriate corrective measures have been taken.
5. Where, in the course of monitoring conformity of production following the issue of a type-approval certificate, a technical service finds that a vehicle, system, component or separate technical unit no longer complies with this Regulation, it shall report this to the type-approval authority¹²⁹ with a view to require the manufacturer to take appropriate corrective measures and, if necessary, to suspend or withdraw the type-approval certificate unless appropriate corrective measures have been taken to the satisfaction of the technical service.
- 6.¹³⁰ Where corrective measures are not taken or are not considered to be satisfactory, the technical service shall report this to the type-approval authority in order to restrict, suspend or withdraw the type-approval certificate, as appropriate.¹³¹

¹²⁸ ES: replace by "Where it is found that ... " (MD T22/11)

¹²⁹ AT: delete "with a view to require satisfaction of the technical service". Add the following text:
"The type-approval authority shall take the appropriate measures as foreseen in Article 19" (MD T 14/12).

¹³⁰ AT: delete point 6 (MD T 14/12).

¹³¹ DE, NL: reservation. The activities under paragraphs (4), (5) and (6) belong to type-approval authorities, not to technical services. COM: the reinforcement of market surveillance through the use of Decision 768/2008 needs to be further refined in order to differentiate responsibilities between type-approval authorities, market surveillance authorities and technical services.

Article 53d

Information obligations of technical services

1. Technical services shall inform the approval authority of the following:

- (a) any non-conformity encountered which may require a refusal, restriction, suspension or withdrawal of a type-approval certificate;**
- (b) any circumstances affecting the scope of and conditions for their designation;**
- (c) any request for information which they have received from market surveillance authorities regarding their assessment activities.**

2. On request from their designating authority, technical services shall provide information on the assessment activities within the scope of their designation and on any other activity performed, including cross-border activities and subcontracting.

3. ~~Technical services shall provide the other technical services notified under this Regulation which carry out similar assessment activities covering the same vehicle, system, component or separate technical unit with relevant information on issues relating to negative and, on request, positive assessment results.~~ ¹³²

¹³² ES: replace this paragraph by : (MD T22/11)
"Technical services shall provide the approval authority with relevant information on issues relating to negative and, on request, positive assessment results."

CHAPTER XVIII

IMPLEMENTING MEASURES AND DELEGATION

Article 54

Implementing measures

For the purposes of achieving the objectives of this Regulation and in order to lay down uniform conditions for the implementation of this Regulation the Commission shall, in accordance with the procedure referred to in Article 55(**2**), adopt implementing acts laying down the following implementing measures:

- 1.**(a)** the detailed**eds** of the arrangements with regard to type-approval procedures ~~in accordance with~~ **referred to in** Article 10-~~(6)~~ of this Regulation;
 - 2.**(b)** templates for the information folder and **for** the information document ~~in accordance with~~ **referred to in** Article 12 ~~(1)~~ of this Regulation;
 - 3.**(c)** a numbering system of EU type-approval certificates ~~in accordance with~~ **referred to in** Article 15**(4)** of this Regulation;
 - 4.**(d)**a template for a **EU** type-approval certificate ~~in accordance with~~ **referred to in** Article **16(2)** ~~15(5)~~ of this Regulation;
- (da) template for the test results sheet appended to the EU type-approval certificate referred to in point a of Article 16(3);**

5. ~~a template for the list of system, component or separate technical unit EU type approvals in accordance with Article 16 (5) of this Regulation;~~
6. (e) a template of the list of applicable requirements or regulatory acts in accordance with referred to in Article 16(6) of this Regulation;
- (f) the general requirements for the format of test report referred to in Article 18(1);
7. (g) detailed of the arrangements with regard to conformity of production in accordance with referred to in Article 19 of this Regulation;
8. (h) the template of a certificate of conformity in accordance with referred to in Article 24 (2) of this Regulation;
- (i) the list of restrictions on the certificate of conformity as regards the use of the vehicle referred to in Article 24(5);
9. (j) the model of the EU type-approval mark in accordance with referred to in Article 25 of this Regulation;
- (k) an authorisation to grant EU type-approval exempting new technologies or new concepts referred to in Article 26(3);
- (ka) an authorisation to a Member State to extend the type-approval referred to in Article 27(2);
- (l) the model and the numbering system for the certificate referred to in Article 38(2) as well as all aspects relating to the procedure of authorisation referred to in that Article;
- (m) the template of a certificate providing proof of compliance to the type approval authority as referred to in Article 47(8).

Article 55

Committee procedure

1. The Commission shall be assisted by ~~a committee referred to as the "Technical Committee – Agricultural Vehicles" (TC-AV).~~ **That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.**
2. Where reference is made to this paragraph, Article 5 **of Regulation (EU) No 182/2011 shall apply.**

Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply. ~~and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof. The period referred to in Article 5(6) of Decision 1999/468/EC shall be set at three months.~~

3. ~~The Committee shall adopt its rules of procedure.~~

Article 56

Amendment of the Annexes

1. **Without prejudice to the other provisions of this Regulation relating to the amendment of its Annexes,** ~~the Commission~~ **shall also be empowered to** ~~may adopt, by means of delegated acts in accordance with Articles 57, 58 and 59 amendments to the Annexes of this Regulation~~ **by means of delegated acts in accordance with Article 57 concerning amendments to Annex I of this Regulation in order to introduce document references and to take corrigenda into account.**
2. ~~When, in application of Decision 97/836/EC, new UNECE regulations or amendments to existing UNECE regulations to which the Union has acceded are adopted, the Commission shall, by means of delegated act in accordance with Articles 57, 58 and 59, amend Annex I to this Regulation accordingly.~~

Article 57

Exercise of the delegation

1. The powers to adopt the delegated acts **is conferred on the Commission subject to the conditions laid down in this Article.**

1a. The delegation of power referred to in Articles 7(4), 8(4), 9(5), 18(~~7~~6), 38(~~1~~), (~~2~~) **(1a)** and (~~3~~4a), 42(2), 43(3), 47(~~10~~12), 51(~~b~~8) and 56(**1**) shall be conferred on the Commission for an indeterminate period of time **a period of five¹³³ years from ... ***. **The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.**¹³⁴

1b. The delegation of powers referred to in Articles 7(4), 8(4), 9(5), 18(6), 38(1a) and (4a), 42(2), 47(12) and 56(1) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

2. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

¹³³ IT, ES, FR: two years.

* **Date of entry into force of this Regulation.**

¹³⁴ IT, ES, FR: delete the last sentence ("The delegation of power end of each period.").

3. A delegated act adopted pursuant to Article 7(4), 8(4), 9(5), 18(6), 38(1a) and (4a), 42(2), 47(12) and 56(1) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or the Council. The powers to adopt delegated acts are conferred on the Commission subject to the conditions laid down in Articles 58 and 59.

Article 58

Revocation of the delegation

1. ~~The delegation of power referred to in Articles 7 (4), 8 (4), 9 (5), 18 (7), 38 (1), (2) and (3), 47 (10), 51 (8) and 56 may be revoked at any time by the European Parliament or by the Council.~~
2. ~~The institution which has commenced an internal procedure for deciding whether to revoke the delegation of power shall endeavour to inform the other institution and the Commission within a reasonable time before the final decision is taken, indicating the delegated powers which could be subject to revocation and possible reasons for a revocation.~~
3. ~~The decision of revocation shall put an end to the delegation of the powers specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the *Official Journal of the European Union*.~~

Article 59

Objections to delegated acts

1. — ~~The European Parliament and the Council may object to the delegated act within a period of two months from the date of notification. At the initiative of the European Parliament or the Council this period shall be extended by one month.~~
2. — ~~If, on expiry of that period, neither the European Parliament nor the Council has objected to the delegated act, or if, before that date, the European Parliament and the Council have both informed the Commission that they have decided not to raise objections, the delegated act shall enter into force at the date stated in its provisions.~~
3. — ~~If the European Parliament or the Council objects to the adopted a delegated act, it shall not enter into force. The institution which objects shall state the reasons for objecting to the delegated act.~~

CHAPTER XIX

FINAL PROVISIONS

Article 59a

Penalties

- 1. Member States shall provide for penalties for infringement by economic operators of the provisions of this Regulation and its delegated or implementing acts. They shall take all measures necessary to ensure that the penalties are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall notify those provisions to the Commission by [6 months after publication of this Regulation]¹³⁵ and shall notify the Commission without delay of any subsequent amendment affecting them.**
- 2. The types of infringements which are subject to a penalty shall include inter alia:**
 - (a) making false declarations during approval procedures or procedures leading to a recall;**
 - (b) falsifying test results for type approval or in-service conformity;**
 - (c) withholding data or technical specifications which could lead to recall, refusal or withdrawal of type approval;**
 - (d) use of defeat devices;**
 - (e) refusal to provide access to information.**
 - (f) economic operators making available on the market vehicles, systems, components or separate technical units subject to approval without such approval or falsifying documents or markings in that intention.**

¹³⁵ UK, IT, ES: 24 months. BG: the date referred to in Article 64(2).

Article 60

Transitional provisions

1. **Without prejudice to other provisions of this Regulation,** ~~T~~this Regulation shall not invalidate any ~~ECU~~ type-approval granted to vehicles or to systems, components or separate technical units before the date **specified** ~~laid down~~ in Article 64 (2).
2. Approval authorities shall continue to grant extension of approvals to ~~those~~ **the** vehicles, systems, components or separate technical units **referred to in paragraph 1** ~~under the terms of~~ **in accordance with** Directive 2003/37/EC and any of the directives listed in Article **62(1)** ~~56 (2)~~¹³⁶. **However, such approvals shall not be used for the purposes of obtaining a whole-vehicle type-approval under this Regulation.**¹³⁷
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3. **By way of derogation from Directive 2003/37/EC, type-approval shall also be granted for vehicles which comply with the provisions of this Regulation and its delegated acts on environmental and propulsion requirements as referred to in Annex I before [OJ: please insert date referred to in Article 64(2)]**
4. **National authorities shall not prohibit, restrict or impede the registration, placing on the market or entry into service of vehicles complying with the approved type.**

¹³⁶ CZ: instead of referring to an Article it would be better to refer to the UNECE Regulations.

¹³⁷ UK: delete this last sentence (MD T 7/12)

¹³⁸ UK: add a new paragraph 3 to avoid a legal void in the different dates: (MD T18/11)

"3. Where a delegated act referred to in Articles 7, 8 or 9 is amended to increase the level of stringency compared to the requirements in a former Directive, the Commission shall specify whether or not existing approvals to that subject continue to remain valid, and under which timeframe. Adequate lead time shall be provided to manufacturers to adapt their production to the new requirements, with at least 2 years from the date of publication of the amending act for new types and at least 6 years after publication for existing types. In the case of braking, transitional provisions shall be set out in the relevant delegated act and as an exception to paragraphs 1 and 2 above, shall ensure that existing approvals remain valid for at least [8] years from date of publication of the delegated act on braking."

DE: see also MD T17/11.

Article 61

Report

1. No later than **[add date: four years after the date specified in Article 64(2)]** ~~1 January 2018~~, Member States shall inform the Commission of the application of the type-approval procedures laid down in this Regulation ~~and, in particular, of the application of the multi-stage process.~~
2. On the basis of the information supplied under paragraph 1, the Commission shall **present a** report to the European Parliament and the Council on the application of this Regulation no later than **[add date: five years after the date specified in Article 64(2)]** ~~1 January 2019~~.

Article 62

Repeal

1. **Without prejudice to Article 60(2)**, Directive 2003/37/EC as well as Directives 74/347/EEC, 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, 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, 2009/144/EC are repealed with effect from **[OJ: please insert date] the date specified in Article 64(2)** ~~1 January 2014~~¹³⁹.
2. References to the repealed Directives shall be construed as references to this Regulation and shall be read, as regards Directive 2003/37/EC, in accordance with the correlation table set out in Annex III.

¹³⁹ DE: risk of legal void for the adoption of UNECE Regulations.

Article 63
Amendment to Directive 2006/42/EC

The first indent of point (e) of paragraph 2 of Article 1 of Directive 2006/42/EC is replaced by the following:

“- agricultural and forestry tractors, with the exclusion of machinery mounted on those vehicles,”.

Article 64
Entry into force and application

1. This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.
2. It shall apply from [1 January 2014]¹⁴⁰.

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

Done at Brussels, [...]

For the European Parliament

The President

[...]

For the Council

The President

[...]

¹⁴⁰ BG, DE, FR, ES, UK, IT: reservation on this date. COM: Application date will be examined in relation with the progress achieved on implementing measures and delegated acts.

¹⁴¹ UK: if IMCO amendment 319 is accepted (one date for new types of vehicles and another date for all new vehicles) then it is proposed to add the following paragraphs : (MD T 7/12)
"3. Where vehicle categories previously subject to compulsory EU approval are concerned, the date in paragraph 2(b) shall not apply.
4. Where vehicle categories not previously subject to national or EU approval are concerned, the date in paragraph 2(a) shall not apply."

ANNEX I ¹⁴²

ANNEX I - List of requirements for the purposes of vehicle EU type-approval ^{143 144}

Nr.	Article	Subject	Document reference	MV	Vehicle categories										
					T1	T2	T3	T 4.1	T 4.2	T 4.3	T 5 ¹⁴⁵	C	R	S	<u>U</u>
1	7.2(a)	Fuel tank			X	X	X	X	X	X	X	I	NA	NA	<u>X</u>
2	7.2(b)	Maximum speed <u>and speed governor</u>			X	X	X	X	X	X	X	I	NA	NA	<u>X</u>
3	7.2(b)	Braking devices <u>and trailer brake coupling</u>		-/Y	X	X	X	X	X	X	X	X	X	X	<u>X</u>
4	7.2(b)	Stability			NA	NA	NA	X	NA	NA	X	NA I	NA	NA	<u>X</u>
5	7.2(b)	Steering	ECE 79 REV2 <u>[new number]</u>	Y	X NA	X NA	X NA	X NA	X NA	X NA	X	X NA	NA	NA	X NA
<u>5a</u>	<u>7.2(b)</u>	<u>Steering</u>		<u>Y</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>NA</u>	<u>I</u>	<u>NA</u>	<u>NA</u>	<u>X</u>
6	7.2(b)	Trailer brake coupling			X	X	X	X	X	X	X	I	X	X	X
7	7.2(b)	Speed governor			X	X	X	X	X	X	X	I	NA	NA	<u>X</u>
8	7.2(b)	Speed limitation devices			NA	NA	NA	NA	NA	NA	X	NA	NA	NA	<u>NA</u>

¹⁴² DE: has submitted an alternative proposal for Annex I (see MD T17/11). NL: see also remarks in MD T12/11.

¹⁴³ DE: Annex I is non-transparent, discrepancy between Art. 7-9 and Annex I. COM: the aim of Annex I is to reflect the rules in Art. 7-9.

¹⁴⁴ FI: references in Annex I can be changed in the future, COM has to be entitled to modify the references.

¹⁴⁵ SE: category T5 is out of scope of the 2003/37/EC Directive. What is the future of category T5? COM: T5 falls under the scope of this Regulation.

9	7.2(b)	Reverse gear and Speedometer			NA	NA	NA	NA	NA	NA	X	NA	NA	NA	NA
10	7.2(c)	Field of vision and windscreen wipers	ECE 71 REV [new number]	Y	X	X	X	X	X	X	X	I	NA	NA	X
11 ¹⁴⁶	7.2(c)	Glazing	ECE 43 Rev2 Am3 Sup11		X	X	X	X	X	X	NA	I	NA	NA	X
12	7.2(c)	Glazing (T5)	92/22/EEC ECE 43	X	NA	NA	NA	NA	NA	NA	X	NA	NA	NA	NA
13	7.2(c)	Rear-view mirrors		<u>Y</u>	X	X	NA	X	X	X	X	I	NA	NA	X

¹⁴⁶ ~~UK: only UNECE regulations should be mentioned in points 11 and 12.~~

14 ¹⁴⁷	7.2(d)	Lighting and light signalling devices	ECE 1 Rev4 Am5; ECE 3 Rev3 Am1 Sup11; ECE 4 Rev4 Sup14; ECE 6 Rev4 Sup17; ECE 7 Rev4 Sup15; ECE 8 Rev4; ECE 19 Rev5 Sup1; ECE 20 Rev3; ECE 23 Rev2 Sup15; ECE 38 Rev2 Sup14; ECE 98 Rev1 Sup11	Y	X	X	X	X	X	X	X	X	X	X	X
15	7.2(d)	Lighting installation	ECE 86 Am3 Sup4 [new number]		X	X	X	X	X	X	X	I	X	X	X
15a	7.2(e)	<u>vehicle occupant protection, including interior fittings, head restraint, seat belts, vehicle doors</u>			X	X	X	X	X	X	X	X	NA	NA	
15b	7.2(f)	<u>vehicle exterior and accessories</u>			X	X	X	X	X	X	X	X	X	X	
16	7.2(g)	Electro-magnetic compatibility	ECE 10 Rev3	Y	X	X	X	X	X	X	X	I	NA	NA	X

¹⁴⁷ AT: list of UNECE regulations has to be reviewed, see MD T32/11.

17	7.2(h)	Audible warning device ¹⁴⁸	ECE 28 Am3 <u>Am2</u>	Y	X	X	X	X	X	X	X	I	NA	NA	X
17a	7.2(i)	Heating systems		<u>Y</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>I</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>
17b	7.2(j)	Devices to prevent unauthorised use		<u>Y</u> (only for T- and C-categories)	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>I</u>	<u>NA</u> ¹⁴⁹	<u>X</u>	<u>X</u>
18	7.2(k)	Registration plate			X	X	X	X	X	X	X	I	X	X	X
19	7.2(k)	Statutory plate			X	X	X	X	X	X	X	<u>I</u>	X	X	X
20 ¹⁵⁰	7.2(l)	Dimensions and trailer mass			X	X	X	X	X	X	X	I	X	X	X
21	7.2(l)	Maximum laden mass			X	X	X	X	X	X	X	X	X	X	X
22	7.2(l)	Ballast masses			X	X	NA	X	X	X	X	I	NA	NA	<u>NA</u>
22a	7.2(m)	electrical safety			<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	
23	7.2(n)	Rear protective structures			NA	NA	NA	NA	NA	NA	NA	NA	X	NA	<u>NA</u>
24	7.2(o)	Lateral protection			NA	NA	NA	NA	NA	NA	X	NA	X	NA	<u>NA</u>
25	7.2(p)	Load platforms			X	X	X	X	X	X	X	I	NA	NA	X
26	7.2(q)	Coupling and reversing <u>Towing</u> devices			X	X	<u>X if fitted</u>	X	X	X	X	I	NA	NA	X

¹⁴⁸ AT: the sound levels for categories M and N should apply (MD T32/11).

¹⁴⁹ AT: replace by "X", see MD T32/11.

¹⁵⁰ FR: categories R and S have to be defined precisely in consideration of point 20.

27	7.2(r)	Controls			X	X	X	X	X	X	X	I	NA	NA	X
28	7.2(s)	Tyres	ECE 106 ¹⁵¹ Am5 Sup6		X	X	X	X	X	X	X	NA	X	X	X
29	7.2(t)	<u>Spray-suppression systems</u>		<u>Y</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>X</u>	<u>NA</u>	<u>X</u>	<u>NA</u>	<u>X</u>
<u>29a</u>	<u>7.2(u)</u>	<u>Reverse gear</u>			<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>NA</u>	<u>NA</u>	<u>X</u>
<u>29b</u>	<u>7.2(v)</u>	<u>Tracks</u>			<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>X</u>	<u>NA</u>	<u>NA</u>	<u>X</u>
<u>29c</u>	<u>7.2(w)</u>	<u>Mechanical couplings</u>			<u>X</u>	<u>X</u>	<u>X if fitted</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>I</u>	<u>X</u>	<u>X</u>	<u>X</u>
30 ¹⁵²	8.2(a)	ROPS	OECD Code ¹⁵³ 3, 2010		X	NA	NA	X <u>NA</u>	X	X	X	NA	NA	NA	<u>NA</u>
31	8.2(a)	ROPS	OECD Code 8, 2010		NA	NA	NA	NA	NA	NA	NA	X	NA	NA	<u>NA</u>
32	8.2(a)	ROPS (static testing)	OECD Code 4, 2010		X	X <u>NA</u>	X <u>NA</u>	X <u>NA</u>	X	X	X	X	NA	NA	<u>NA</u>
33	8.2(a)	ROPS, Front-mounted (narrow-track tractors)	OECD Code 6, 2010		X <u>NA</u>	X	X	NA	NA	NA	X	X <u>NA</u>	NA	NA	<u>NA</u>
34	8.2(a)	ROPS, Rear-mounted (narrow-track tractors)	OECD Code 7, 2010		NA	NA <u>X</u>	NA <u>X</u>	NA	NA	NA	X	NA	NA	NA	<u>NA</u>
35 ¹⁵⁴	8.2(b)	FOPS, Falling Objects Protection System	OECD Code 10, 2010		X	X	X	X	X	X	X	I	NA	NA	<u>NA</u>
36	8.2(c)	Passenger seats			X		X	X	X	X	X	I	NA	NA	<u>NA</u>

¹⁵¹ AT: ECE 106 does not contain all tyres for tractors.

¹⁵² FR: on points 30, 31, 32, 33, 34 see proposed amendments in MD T27/11. AT: see MD T32/11.

¹⁵³ AT: the scope of OECD code has to be coherent with X symbols in the table.

¹⁵⁴ UK: this point should be reviewed; the scope of these provisions is broad. AT: for this point and point 44 see remarks in MD T32/11.

37	8.2(d)	Sound levels (internal) Driver-perceived noise level			X	X	X	X	X	X	X	X	NA	NA	NA
38	8.2(e)	Driving seat			X	X	X	X	X	X	X	I	NA	NA	NA
39 ¹⁵⁵	8.2(f)	Operating space, access to the driving position			X		X	X	X	X	X	I	NA	NA	NA
40	8.2(g)	Power take-offs			X	X	X if fitted	X	X	X	X	X	NA	NA	NA
41	8.2(h) (h)	Protection of drive components			X	X	X	X	X	X	X	X	NA	NA	NA
42	8.2(h) (i)	Seat-belt anchorages	OECD Codes 3, 4, 6, 7, 8; 2010		X	X	X	X	X	X	X	X	NA	NA	NA
43	8.2(k) (i)	Safety belts			X	X	X	X	X	X	X	X	NA	NA	NA
44	8.2(h) (k)	OPS, Protection against penetrating objects			X	X	X	X	X	X	X	I	NA	NA	NA
45	8.2(m) (l)	Hazardous substances			X	X	X	X	X	X	X	X	NA	NA	NA
46	8.2(n) (m)	Operators manual			X	X	X	X	X	X	X	X	X	X	X
46a	8.2(n)	Controls			X	X	X	X	X	X	X	I	NA	NA	X
46b	8.2(p)	Protection against mechanical hazards other than the ones mentioned in Art. 8.2 (a), (b), (g), (k)			X	X	X	X	X	X	X	I	NA 156	X	X
46c	8.2(q)	Operation and maintenance			X	X	X	X	X	X	X	I	NA	X	X

¹⁵⁵ FR: on points 39, 42, 43 see proposed amendments in MD T27/11.

¹⁵⁶ AT: in points 46b, 46c, 46d, 46e replace NA by "X" (MD T32/11).

46d	8.2(r)	<u>Guards and protective devices</u>			<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>I</u>	<u>NA</u>	<u>X</u>	<u>X</u>
46e	8.2(s)	<u>Information and markings</u>			<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>I</u>	<u>NA</u>	<u>X</u>	<u>X</u>
46f	8.2(t)	<u>Materials and products</u>			<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>Y</u>	<u>I</u>	<u>NA</u>	<u>NA</u>	<u>X</u>
46g	8.2(u)	<u>Batteries</u>			<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>Y</u>	<u>I</u>	<u>NA</u>	<u>NA</u>	<u>X</u>
47	9.2(a)	Pollutant emissions	97/68/EC ¹⁵⁷		X	X	X	X	X	X	X	X	NA	NA	<u>NA</u>
48	9.2(b)	Sound level (external)	ECE 51 ¹⁵⁸ Rev1 Am4	Y	X	X	X	X	X	X	X	I	NA	NA	<u>NA</u> <u>X</u>

Legend:

X = applicable

I = same as for T according to the category

Y = the relevant ~~regulatory~~ acts for motor vehicles are accepted as equivalent

NA = not applicable

MV = relevant ~~Directives~~ **regulatory acts** for motor vehicles under Directive 2007/46/EC can be applied as equivalent.

¹⁵⁷ DE: 97/68/EC Directive is not applicable. COM: it is applicable through Dir. 2000/25/EC.

¹⁵⁸ DE: ECE 51 has to be extended to categories T, C, R and S. AT, IT: the limits in ECE-R51 do not suit tractors.

ANNEX II - Limits for small series and for end-of-series vehicles

Part 1 - Limits for small series

The number of units within a type to be <u>made available on the market</u> , registered, placed on sale or put <u>entered</u> into service per year in each Member State shall not exceed the value shown below for the vehicle category in question.	
Category	Units (for each type)
T	150
C	50
R ¹⁶⁰	75
S	50

~~Part 2 - Limits for end-of-series vehicles~~ (text transferred in Art. 34)

~~The maximum number of vehicles of one or several types entering service in each Member State, in accordance with the procedure provided for in Article 14 **34**, must not exceed 10 % of the number of vehicles of all the types concerned which entered service in the two preceding years in the Member State in question; however, it may not be less than 20.~~

~~Vehicles entering service in accordance with this procedure shall be identified by a specific reference on the certificate of conformity.~~

¹⁵⁹ ES: Annex II and Art. 28 have to be coherent with 2007/46/EC Directive.

¹⁶⁰ BG, IT, RO: reservation on this deletion.

ANNEX III¹⁶¹

ANNEX III - Correlation table

(referred to in Article 56)

Directive 2003/37/EC	This Regulation
-	Article 1
Article 1	Article 2
Article 2	Article 3
Article 3	Articles 10, 11
Article 4	Article 12
Article 5	Articles 18 – 21
Article 6	Articles 23, 24
Article 7	Articles 31 – 33
Article 8 (1)	Article 25 (1)
Article 8 (2)	Articles 27, 28, 32
Article 9	Articles 27, 28
Article 10	Article 32
Article 11	Articles 25, 26
Article 12	Articles 40, 41
Article 13	Articles 5, 12, 16

¹⁶¹ COM: tbc. since a number of references have changed.

Article 14	Articles 35 (5)
Article 15	Chapter XII
Article 16	Article 35 (2)
Article 17	Article 35 (3)
Article 18	Article 38
Article 19	Article 48
Article 20	Article 49
Article 21	Article 4 + Chapter VII
Article 22	-
Article 23	Article 2 (3)
Article 24	Article 56
-	Article 57
Article 25	Article 58
Article 26	-
