Regulation (EU) No 167/2013 of the European Parliament and of the Council of 5 February 2013 on the approval and market surveillance of agricultural and forestry vehicles (Text with EEA relevance)

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on the approval and market surveillance of agricultural and forestry vehicles

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee[(1)],

Acting in accordance with the ordinary legislative procedure[(2)],

Whereas:

(1) In order to promote the internal market, a comprehensive 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[(3)].

(2) For the purposes of the development and operation of the internal market of the Union, it is appropriate to replace the approval systems of the Member States with a Union type-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 adoption of type-approval legislation, a new regulatory approach has been introduced in Union vehicle type-approval legislation in accordance with which the legislator in the ordinary legislative procedure sets out the fundamental rules and principles only and delegates the power to adopt delegated acts concerning further technical details to the Commission. With regard to substantive requirements, this Regulation should therefore lay down only fundamental provisions on functional safety, occupational safety and environmental performance and delegate to the Commission the power to lay down the technical specifications in delegated acts.

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(4) The requirements of this Regulation are in accordance with the principles enshrined in the Commission Communication of 5 June 2002 entitled 'Action plan "Simplifying and improving the regulatory environment"'.

(5) It is of particular importance that future measures proposed on the basis of this Regulation or procedures to be implemented in application of it comply with the principles which have been restated in the report published by the Commission in 2006 entitled 'CARS 21: A Competitive Automotive Regulatory System for the 21st century' ('CARS 21'). In particular, for the purposes of better regulation and simplification and in order to avoid constant updating of existing Union 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 Union legal framework.

(6) Since neither 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[(4)] and Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery[(5)] nor this Regulation provide for design and construction requirements to ensure safety on the road of self-propelled non-road mobile machinery intended for use in particular in agriculture and forestry, the Commission should assess the need for harmonising the laws of the Member States in that area and consider proposing a legislative measure in order to ensure a high level of safety, taking into account existing Union legislation.

(7) This Regulation should be 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 maximum speed or measures regulating the access to certain roads.

(8) Directive 2003/37/EC in a first stage limited the mandatory application of the EC 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.

(9) Directive 2003/37/EC provided for the EC whole-vehicle type-approval of all-terrain vehicles and side-by-side vehicles as tractors. Those vehicle types should therefore also be covered by this Regulation, provided that the type of vehicle concerned falls within a vehicle category as referred to in this Regulation and complies with all requirements of this Regulation.

(10) The national authorities' obligations laid down in the market surveillance provisions of this Regulation are more specific than the corresponding provisions of Regulation (EC)

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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[(6)].

(11) In order to ensure a high level of 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.

(12) 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 that 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.

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

(14) In certain limited cases, it is appropriate to allow for national small series type-approval. That should, however, be restricted to limited numbers of vehicles. Therefore it is necessary to define precisely the concept of small series in terms of the number of vehicles to be produced.

(15) The main objective of Union legislation on the approval of vehicles is to ensure that new vehicles, components and separate technical units placed on the market provide a high level of safety and environmental protection. That objective 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 prior control by an approval authority before they are placed on the market. Those measures should consist of technical provisions concerning the requirements that those parts or equipment have to comply with.

(16) Such measures should only apply to a limited number of parts and equipment, the list of which should be established by the Commission in an implementing act after it has consulted the stakeholders. 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.

(17) The Union is a contracting party of the Agreement of the United Nations Economic Commission for Europe concerning the adoption of uniform technical prescriptions for

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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')[7]. In order to simplify the type-approval legislation in line with the recommendations of 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 the delegated acts adopted pursuant to this Regulation and should be replaced, where appropriate, with references to the corresponding United Nations Economic Commission for Europe (UNECE) regulations which the Union has voted in favour of or to which the Union has acceded and which are annexed to the Revised 1958 Agreement. To reduce the administrative burden of the type-approval process, vehicle manufacturers should be allowed to seek type-approval in accordance with this Regulation, where appropriate, directly by means of obtaining approval to the relevant UNECE regulations referred to in Annex I or the delegated acts adopted pursuant to this Regulation.

(18) Consequently, UNECE regulations and the amendments thereto on which the Union has voted in favour, in application of Decision 97/836/EC, should be incorporated within the EU type-approval legislation. Accordingly, the power should be delegated to the Commission to adopt the necessary adaptations to Annex I to this Regulation or the delegated acts adopted pursuant to this Regulation.

(19) As an alternative, reference could 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 and referenced therein.

(20) It is important that manufacturers supply relevant information to vehicle owners in order to prevent misuse of safety devices.

(21) In order to allow manufacturers of components or separate technical units to apply for EU type-approval for components or separate technical units or for authorisation for parts or equipment, 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.

(22) Non-discriminatory 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, the freedom of establishment and the freedom to provide services. A great proportion of such information is related to on-board diagnostic 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.

(23) Vehicle manufacturers should also be permitted to 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 11783, by providing on

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the manufacturer's website a link to a website set up jointly by several manufacturers or a consortium of manufacturers.

(24) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those 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 Member States of the Commission's exercise of implementing powers[(8)].

(25) In order to supplement this Regulation with further technical details, 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 functional safety, construction requirements, environmental and propulsion performance, access to repair and maintenance information and appointment and specific authorised tasks of technical services. 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 to the Council.

(26) Member States should lay down rules on penalties applicable to infringements of this Regulation and the delegated or implementing acts adopted pursuant to this Regulation and ensure that they are implemented. Those penalties should be effective, proportionate and dissuasive.

(27) While nothing in this Regulation prevents Member States from continuing to apply their respective individual approval systems, the Commission should report to the European Parliament and the Council on the operation of these national systems, based on information provided by Member States, in order to reconsider the question of whether to submit a legislative proposal for the harmonisation of the individual approval system at Union level.

(28) As a consequence of the application of the new regulatory system set in place by this Regulation, the following Directives should be repealed:

— Directive 2003/37/EC,

— Council Directive 74/347/EEC of 25 June 1974 on the approximation of the laws of the Member States relating to the field of vision and windscreen wipers for wheeled agricultural or forestry tractors[(9)],

— Council Directive 76/432/EEC 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[(10)],

— Council Directive 76/763/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to passenger seats for wheeled agricultural or forestry tractors[(11)],

— Council Directive 77/537/EEC of 28 June 1977 on the approximation of the laws of the Member States relating to the measures to be taken against the