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Opinion

Title **Impact Assessment on: Proposal for a Directive of the European Parliament and of the Council amending Directive 97/68/EC as regards the provisions for engines placed on the market under a "flexible scheme"**

(draft version of 22 July 2009)

Lead DG **DG ENTR**

1) Impact Assessment Board Opinion

(A) Context

The Non-Road Mobile Machinery Directive (NRMM) 97/68/EC regulates the exhaust emissions from diesel engines installed in non-road mobile machinery. It foresees the reduction of these emissions through staggered emission limit stages. Directive 2004/26/EC introduced a 'flexibility scheme' to facilitate the transition between the different stages. The current stage of emission limits, Stage IIIA, will be replaced by Stage IIIB from 2011, with the type approval period starting in January 2010. Further research and technological development is required to complete the necessary technical adaptation or re-design for some engine categories to make them compliant with Stage IIIB limits. This impact assessment accompanies the proposal to amend the flexibility scheme in the short term to allow the NRMM manufacturers to better distribute their re-design capacities and costs over time. The Commission plans to propose an overall revision of the NRMM Directive by the end of 2010.

(B) Positive aspects

The report makes efforts to quantify the impacts of the proposed amendments of the flexibility scheme on the NOx and PM emissions.

(C) Main recommendations for improvements

The recommendations below are listed in order of descending importance. Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.

General recommendation: The report needs substantial further work on a number of key aspects. It needs to make a distinction between problems which are caused by the current economic crisis and more general problems related to the design and introduction of the necessary new technology. The report should provide a clearer overview of the current state of preparation of the industry to meet the Stage IIIB limits and differentiate between the manufactures/sectors already producing compliant machinery, and those facing difficulties in producing such machinery. In this context, the report should address the issue of whether modifying the flexibility scheme at this stage will have an impact on the incentives of manufacturers to comply with the Directive in the future. Finally, the report should explicitly mention all possible environmental impacts of the proposed amendment of the flexibility scheme.

During the IAB meeting, DG ENTR agreed to make the necessary changes to the impact assessment on this basis. Given the fundamental nature of these changes, the Board would like to examine and issue a new opinion on a revised report.

(1) Strengthen the baseline scenario by distinguishing the problems which are related to the current economic crisis and those which are related to the design and introduction of the technology, and explain better the current state of preparation of the industry to meet the Stage IIIB limits. The report should be more explicit about the extent to which the problems identified relate to the current economic crisis and to what extent they can be attributed to the delayed availability of technological solutions necessary to produce Stage IIIB compliant machinery. It should be more specific about the differences in preparation of the various players in the value chain (e.g. OEM producers, integrators/manufactures) for the production of Stage IIIB compliant machinery for the different product groups and their respective competitive positions in the various product segments. In the baseline scenario, the report should specify whether it is foreseen to put forward similar proposals concerning the modification of the flexibility scheme in case of difficulties to comply with future Stage IV emission limits.

(2) Address the issue of whether modifying the flexibility scheme at this stage will have an impact on the incentives of manufacturers to comply with the Directive in the future, and identify possible options to deal with incentive effects. Given that some manufacturers are ready to produce Stage IIIB compliant machinery or aim to comply within the timeframe set by the Directive, the report should clarify whether the proposed amendments of the flexibility scheme could have an impact on competition (between complying and non-complying manufactures) and on the incentives of the manufacturers to comply with the Directive in the future. In this context, the report could present the options that might mitigate possible negative impact on the incentives, such as penalties to manufacturers who do not comply with emission stage limits or tradeable permits to place non-compliant machinery on the market. Finally, the report should clarify on which basis the new limits for the number of engines placed on the market under the flexibility scheme were determined.

(3) Be more specific about all environmental impacts of the proposed amendment of the flexibility scheme. While the report analysis the impacts of the proposal on NO_x and PM emissions in the context of the commitments agreed under the Clean Air for Europe, it should also be explicit about the possible impacts on CO₂ emissions.

(D) Procedure and presentation

The presentation of the quantitative assessment of impacts should be improved, specifically as regards the key assumptions and values used to calculate the costs and benefits.

2) IAB scrutiny process

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