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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EC) No 715/2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

On 13 December 2018, the General Court delivered a judgment in the Direct Actions T-339/16 (*Ville de Paris/Commission*), T-352/16 (*Ville de Bruxelles/Commission*) and T-391/16 (*Ayuntamiento de Madrid/Commission*) submitted against Commission Regulation (EU) 2016/646 amending Commission Regulation (EC) No 692/2008 as regards emissions from light passenger and commercial vehicles (Euro 6)¹. Regulation (EU) 2016/646 set out the conformity factors used to assess compliance of the vehicle with the emission limits while performing a Real Driving Emissions (RDE) test. The contested conformity factors were used to progressively reduce the discrepancy between emissions measured in real driving and those measured in a laboratory.

The Court does not rule on the technical necessity of the conformity factors. It finds that the Regulation (EU) 2016/646 'de facto' modifies the limit of 80mg/km set by Regulation (EU) 715/2007 by allowing for a higher level of emissions in real-driving emission tests than when measuring emissions under laboratory conditions. The Court finds that only the legislator itself could have introduced the conformity factors as it touches upon an essential element of a legislative act (Regulation (EC) No 715/2007²). The Court has therefore annulled the part of Regulation (EU) 2016/646, which established the conformity factors.

The annulment is of a partial nature. The RDE test procedure as established by Commission Regulation (EU) 2016/427³ and further amended by Commission Regulations (EU) 2016/646⁴, 2017/1154⁵ and 2018/1832⁶ therefore remains in force and must still be conducted at type-approval.

The need to adopt the current proposal results directly from the Judgement of the General Court judgment in Direct Actions T-339/16, T-352/16 and T-391/16 and its swift adoption is vital in order to avoid legal uncertainty on the type approvals already granted since 1

¹ OJ L 109, 26.4.2016, p. 1.

² Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information, OJ L 171, 29.6.2007, p. 1.

³ Commission Regulation (EU) 2016/427 of 10 March 2016 amending Regulation (EC) No 692/2008 as regards emissions from light passenger and commercial vehicles (Euro 6), OJ L 82, 31.3.2016, p. 1.

⁴ Commission Regulation (EU) 2016/646 of 20 April 2016 amending Regulation (EC) No 692/2008 as regards emissions from light passenger and commercial vehicles (Euro 6), OJ L 109, 26.4.2016, p. 1.

⁵ Commission Regulation (EU) 2017/1154 of 7 June 2017 amending Regulation (EU) 2017/1151 supplementing Regulation (EC) No 715/2007 of the European Parliament and of the Council on type-approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information, amending Directive 2007/46/EC of the European Parliament and of the Council, Commission Regulation (EC) No 692/2008 and Commission Regulation (EU) No 1230/2012 and repealing Regulation (EC) No 692/2008 and Directive 2007/46/EC of the European Parliament and of the Council as regards real-driving emissions from light passenger and commercial vehicles (Euro 6), OJ L 175, 7.7.2017, p. 708.

⁶ Commission Regulation (EU) 2018/1832 of 5 November 2018 amending Directive 2007/46/EC of the European Parliament and of the Council, Commission Regulation (EC) No 692/2008 and Commission Regulation (EU) 2017/1151 for the purpose of improving the emission type approval tests and procedures for light passenger and commercial vehicles, including those for in-service conformity and real-driving emissions and introducing devices for monitoring the consumption of fuel and electric energy, OJ L 301, 27.11.2018, p. 1.

September 2017, as well as on the future type-approvals. In fact, it is fundamental that economic operators have clarity on the applicable rules as soon as possible and in any case until the judgement takes effect, on 23 February 2020. To minimize the possible risk of legal uncertainty, the time in Article 3 has been set to three days.

To avoid legal uncertainty on the type approvals already granted since 1 September 2017, the General Court delays the effects of the annulment by a maximum period of 12 months, (i.e. 23 February 2020) to give time to the Commission to implement the judgment.

In the meantime, and to avoid an undue burden for the manufacturers that already designed their vehicles taking into account the RDE procedure adopted earlier the Commission has decided to propose to the European Parliament and to the Council to re-instate the previously adopted conformity factors.

In addition, the Commission also proposes that the legislator empowers the Commission to annually review downwards the conformity factors set out by the legislator, in order to reflect the progress in accuracy of the portable measuring equipment. This will allow to gradually reduce even further the emissions of nitrogen oxides (NOx) under real driving.

- **Consistency with existing policy provisions in the policy area**

Emission regulations are adopted as part of the EU framework for the type approval of cars, vans, trucks, buses and coaches. Successive "Euro" standards are designated by Arabic numerals for light-duty vehicles (cars and vans) and Roman numerals for heavy-duty vehicles (trucks, buses and coaches). The latest standards are Euro 6 for light-duty, and Euro VI for heavy-duty:

- Directive 2007/46/EC⁷ provides a common legal framework for the type approval of cars, vans, trucks, buses and coaches.
- Euro 5 and 6 Regulation (EC) No 715/2007 sets the emission limits for cars for regulated pollutants, in particular nitrogen oxides (NOx, i.e. the combined emissions of NO and NO₂) of 80 mg/km.
- Regulation (EC) No 692/2008 implements and amends Regulation (EC) No 715/2007 on type-approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information.
- Regulations 2017/1151 (Worldwide Harmonised Light Vehicle Test Procedure) and 2018/1832 (Real-Driving Emissions 4) are defining the new test procedures for vehicle type approval and enable real world testing, including testing by independent certified laboratories.
- Regulation 595/2009/EC requires new heavy duty vehicles and engines to comply with new emission limits and introduces additional requirements on access to information.
- Commission Regulation (EU) 582/2011 implements and amends Regulation (EC) No 595/2009 with respect to emissions from heavy duty vehicles (Euro VI).

⁷ Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive), OJ L 263, 9.10.2007, p. 1.

Successive Euro emission standards have led to very significant drops in emissions of exhaust particles both in terms of mass (PM) and in terms of numbers (PN) and other pollutants such as hydrocarbons (HC) and carbon monoxide (CO). However, NO_x emissions--and in particular nitrogen dioxide (NO₂) emissions--from road transport have not been reduced as much as expected with the introduction of Euro standards since 1991. This is due to the fact that emissions during "real-world" driving conditions are often higher than those measured during the type approval test (in particular for diesel vehicles).

To deal with high on-road emissions from passenger vehicles, where a significant discrepancy with the laboratory testing was observed in recent years, the Commission developed the RDE test procedure, which applies from 1 September 2017. This test procedure, which better reflects the actual emissions on the road and reduces the discrepancy between emissions measured in real driving to those measured in a laboratory, uses portable on-board emission analysers to measure emissions during a realistic, on-road test.

The RDE procedure complements the laboratory-based procedure to check that the emission levels of nitrogen NO_x and the PN measured during the laboratory test stay low also in real driving conditions. Light duty vehicles certified with the latest version of the emission standards as "Euro 6d-TEMP" or "Euro 6d" are certified with real driving emissions tests.

In addition to substantial modification of the testing regime, Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles will enable effective market surveillance of the environmental performance of vehicles.

- **Consistency with other Union policies**

Air quality has improved in the European Union over the last decades, thanks to joint efforts by the EU and the national, regional and local authorities. This includes reductions in emission of air pollutants since 2000 by between 10% and 70%, depending on the pollutant (and reductions of 42% for NO_x). These reductions are also based on successes in controlling emissions by integrating environmental protection requirements into the transport sector.⁸

Nevertheless, cities across the European Union continue to face severe problems with outdoor nitrogen dioxide (NO₂) concentrations, with road transport continuing to be the largest contributor to exceedances above the limit values set by the Directive on ambient air quality and cleaner air for Europe (Directive 2008/50/EC) to protect from risks to human health and the environment. For 2016, 19 Member States reported exceedances⁹, usually in urban areas and due to high NO_x (NO + NO₂) emissions from local traffic. NO_x emissions of diesel cars and vans, which may be significantly higher under real driving conditions than the regulatory emission limits measured on a laboratory test cycle, contribute to this considerably.¹⁰

The mandatory NO_x emission limits for diesel cars in the EU have been progressively lowered from 500 mg/km at Euro 3 (there were no NO_x limits specified for Euro 1 and 2 diesel vehicles) to 80 mg/km at Euro 6¹¹. However, there is evidence that despite these increasingly stringent NO_x limits, that are verified under laboratory conditions and on a

⁸ See: COM(2018)330 A Europe that protects: Clean air for all.

⁹ See: EEA, 2019. Air Quality in Europe – 2018 report.

<https://www.eea.europa.eu/publications/air-quality-in-europe-2018>

¹⁰ Road traffic is responsible for around 40% of nitrogen oxides emissions in the EU. Of the total emitted nitrogen oxides from traffic, around 80% comes from diesel powered vehicles.

¹¹ The Euro 6 NO_x limit value was introduced in 2007 and became applicable to new types in September 2014 and to new vehicles in September 2015.

standardised test cycle, the actual NOx emissions under real driving conditions did not come down to the same extent (Weiss et al. 2011).

In response to this, the Commission has developed the real driving emissions procedure (RDE). This new test procedure is vital to controlling the real driving emissions of NOx from diesel cars. It first applied for monitoring purposes from early 2016 to complement the laboratory test and has been applicable to new vehicle types as from 1 September 2017; it will apply to all new vehicles as from 1 September 2019.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

The legal basis of the proposal is Article 114 of the Treaty on the Functioning of the European Union (TFEU).

• Subsidiarity (for non-exclusive competence)

In line with other legislation concerning the type-approval of motor vehicles, the action under consideration is based on Article 114 of the TFEU ensuring the functioning of the internal market.

European Union action is necessary because of the need to avoid the emergence of barriers to the single market notably in the field of the automotive industry, and because of the transnational nature of air pollution and climate change. Even though the effects of the main toxic air pollutants are most severe close to the source, the effects on air quality are not limited to the local level and cross-border pollution is a serious environmental problem that often frustrates national solutions. Atmospheric modelling shows that the pollution emitted in one Member State contributes to pollution in other Member States. In order to solve the problem of air pollution, concerted action at the EU scale is required.

• Proportionality

The proposal is proportionate as it provides for the necessary legal change and at the same time does not go beyond what is necessary to achieve the objectives of reduction of pollutant emissions from motor vehicles on the one hand and ensuring legal certainty for vehicle manufacturers on the other. It provides for the necessary legal conditions to uphold, to the extent possible, a level playing field among manufacturers.

• Choice of the instrument

The use of a Regulation is appropriate because it amends an existing Regulation.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

• Ex-post evaluations/fitness checks of existing legislation

Not applicable

• Stakeholder consultations

The Commission sent a questionnaire to automotive stakeholders before the adoption of the RDE conformity factors. This questionnaire asked for technical information and data to inform the assessment of the Commission. The questions focussed on the following three items:

a) Composition of the new diesel vehicle fleet regarding NOx reduction technologies;

- b) Any available data on the current real driving emission performance of these vehicles;
- c) Information on the generic improvement potential of their NOx emission performance.

Four replies were received. These replies came from the European Automobile Manufacturers' Association (ACEA), the Association for Emissions Control by Catalyst (AECC), a vehicle manufacturers association (submitted under the condition of anonymity) and a major tier-1 supplier (submitted under the condition of anonymity). No individual vehicle manufacturer contributed information despite written and several oral requests in the relevant working groups. Of the four replies received, only the AECC and the tier-1 supplier response provided relevant information and data. The remaining two turned out to be of very limited use in the given context.

- **Collection and use of expertise**

Before the adoption of Regulation (EU) 2016/646, the Commission's Joint Research Centre (JRC) performed a meta-study of the NOx emissions data from Portable Emission Measurement Systems (PEMS) tests done on Euro 6 diesel vehicles. The resulting dataset comprised 36 diesel vehicles of different types and 234 individual testing trips. It was a comprehensive and reliable dataset, which showed that the median NOx emission level of Euro 6 diesel vehicles on the road was about 4 (i.e. four times the regulatory NOx limit).

- **Impact assessment**

This proposal does not require an impact assessment. This initiative simply changes the legal instrument by which the same existing conformity factors that are necessary for the correct application of the RDE test procedure are established, and empowers the Commission to further review downwards the conformity factor, to adapt it to technical progress. The conformity factors have no impact on the existing emission limits as set in Regulation (EC) No 715/2007, which were subject to an impact assessment at the time of adoption of Regulation (EC) 715/2007¹².

- **Fundamental rights**

This proposal has no consequences for the protection of fundamental rights

4. BUDGETARY IMPLICATIONS

Not applicable.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Not applicable.

- **Explanatory documents (for directives)**

Not applicable.

¹² Commission staff working document - Annex to the Proposal for a Regulation of the European Parliament and of the Council on type approval of motor vehicles with respect to emissions and on access to vehicle repair information, amending Directive 72/306/EEC and Directive .././EC - Impact Assessment {COM(2005) 683 final}.

/* SEC/2005/1745 */

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(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 Committee¹,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Regulation (EC) No 715/2007 of the European Parliament and of the Council² is one of the separate regulatory acts under the type-approval framework laid down by Directive 2007/46/EC of the European Parliament and of the Council³.
- (2) Regulation (EC) No 715/2007 requires new light-duty vehicles to comply with certain emission limits (Euro 5 and Euro 6 standards) and lays down additional requirements on access to vehicle repair and maintenance information. The specific technical provisions necessary to implement that Regulation were set out in Commission Regulation (EC) No 692/2008⁴ and subsequently, in Commission Regulation (EU) 2017/1151⁵.

¹ OJ C , , p. .

² Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information (OJ L 171, 29.6.2007, p. 1).

³ Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive) (OJ L 263, 9.10.2007, p. 1).

⁴ Commission Regulation (EC) No 692/2008 of 18 July 2008 implementing and amending Regulation (EC) No 715/2007 of the European Parliament and of the Council on type-approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information (OJ L 199, 28.7.2008, p. 1).

⁵ Commission Regulation (EU) 2017/1151 of 1 June 2017 supplementing Regulation (EC) No 715/2007 of the European Parliament and of the Council on type-approval of motor vehicles with respect to

- (3) The type-approval requirements relating to emissions from motor vehicles have been gradually and significantly tightened through the introduction and subsequent revision of Euro standards. While vehicles in general have delivered substantial emission reductions across the range of regulated pollutants, this was not the case for NOx emissions from diesel engines or particles for gasoline direct injection engines, installed in particular in light-duty vehicles. Actions for correcting this situation are therefore needed.
- (4) The Commission performed a detailed analysis of the procedures, tests and requirements for type approval that are set out in Regulation (EC) No 692/2008 on the basis of own research and external information and found that the emissions generated by real driving on the road of Euro 5 or Euro 6 vehicles substantially exceed the emissions measured on the regulatory New European Driving Cycle (NEDC), in particular with respect to NOx emissions of diesel vehicles.
- (5) As a result, the Commission developed a new methodology for testing vehicle emissions in real-driving conditions, the real-driving emissions (RDE) test procedure. The RDE test procedure was introduced by Commission Regulations (EU) 2016/427⁶ and (EU) 2016/646⁷, subsequently taken over into Regulation (EU) 2017/1151 and further improved by Commission Regulation (EU) 2017/1154⁸.
- (6) Regulation (EU) 2016/646⁹ introduced the dates of application of the RDE test procedure, as well as the compliance criteria for RDE. For that purpose, pollutant-specific conformity factors were used to take account of statistical and technical uncertainties of the measurements conducted by means of Portable Emission Measurement Systems (PEMS).
- (7) On 13 December 2018, the General Court delivered judgment in Joined Cases T-339/16, T-352/16 and T-391/16¹⁰ concerning an action for annulment of Regulation (EU) 2016/646. The General Court annulled the part of Regulation (EU) 2016/646 which established the conformity factors used to assess compliance of RDE test results with the emission limits laid down in Regulation (EC) No 715/2007. The Court found that only the legislator could introduce those conformity factors as they touched upon an essential element of Regulation (EC) No 715/2007.

emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information, amending Directive 2007/46/EC of the European Parliament and of the Council, Commission Regulation (EC) No 692/2008 and Commission Regulation (EU) No 1230/2012 and repealing Commission Regulation (EC) No 692/2008 (OJ L 175, 7.7.2017, p. 1).

⁶ Commission Regulation (EU) 2016/427 of 10 March 2016 amending Regulation (EC) No 692/2008 as regards emissions from light passenger and commercial vehicles (Euro 6) (OJ L 82, 31.03.2016, p.1).

⁷ Commission Regulation (EU) 2016/646 of 20 April 2016 amending Regulation (EC) No 692/2008 as regards emissions from light passenger and commercial vehicles (Euro 6) (OJ L 109, 26.04.2016, p.1).

⁸ Commission Regulation (EU) 2017/1154 of 7 June 2017 amending Regulation (EU) 2017/1151 supplementing Regulation (EC) No 715/2007 of the European Parliament and of the Council on type-approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information, amending Directive 2007/46/EC of the European Parliament and of the Council, Commission Regulation (EC) No 692/2008 and Commission Regulation (EU) No 1230/2012 and repealing Regulation (EC) No 692/2008 and Directive 2007/46/EC of the European Parliament and of the Council as regards real-driving as regards emissions from light passenger and commercial vehicles (Euro 6) (OJ L 175, 07.07.2017, p.708)

⁹ Commission Regulation (EU) 2016/646 of 20 April 2016 amending Regulation (EC) No 692/2008 as regards emissions from light passenger and commercial vehicles (Euro 6) (OJ L 109, 26.04.2016, p.1).

¹⁰ Judgment of 13 December 2018, *Ville de Paris, Ville de Bruxelles and Ayuntamiento de Madrid v Commission*, T-339/16, T-352/16 and T-391/16, EU:T:2018:927.

- (8) The General Court did not question the technical justification of the conformity factors. Therefore, and given that at the current stage of technological development there is still a discrepancy between emissions measured in real driving and those measured in a laboratory, it is appropriate to introduce the conformity factors into Regulation (EC) No 715/2007.
- (9) In order to allow manufacturers to comply with the Euro 6 emission limits in the context of RDE test procedure, the compliance criteria for RDE should be introduced in two steps. During the first step, upon the request of the manufacturer, a temporary conformity factor should apply, while as a second step only the final conformity factor should be used. The Commission should keep under review the final conformity factors in light of technical progress.
- (10) The Treaty of Lisbon introduced the possibility for the legislator to delegate power to the Commission to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of a legislative act. The measures which can be covered by delegations of powers, as referred to in Article 290(1) TFEU, correspond in principle to those covered by the regulatory procedure with scrutiny established by Article 5a of Council Decision 1999/468/EC¹¹. It is therefore necessary to adapt to Article 290 TFEU the provisions of Regulation (EC) No 715/2007 which provide for the use of the regulatory procedure with scrutiny.
- (11) In order to contribute to the achievement of the Union's air quality objectives and to reduce vehicle emissions, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFUE) should be delegated to the Commission in respect of the detailed rules on the specific procedures, tests and requirements for type approval. That delegation should include supplementing Regulation (EC) No 715/2007 by such revised rules as well as the test cycles used to measure emissions; the requirements for the implementation of the prohibition on the use of defeat devices that reduce the effectiveness of emission control systems; the measures necessary for the implementation of the obligation of a manufacturer to provide unrestricted and standardised access to vehicle repair and maintenance information; the adoption of a revised measurement procedure for particulates. The delegation should further include amending Regulation (EC) No 715/2007 for the purposes of revising the final conformity factors downwards to reflect technical progress in PEMS and recalibrating the particulate mass based limit values and introducing particle number based limit values. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations are conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council should receive all documents at the same time as Member States' experts, and their experts systematically should have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (12) To ensure continuity of implementation in light of technical progress, regulatory procedures with scrutiny pending at the time of the entry into force of this Regulation

¹¹ Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (OJ L 184, 17.7.1999, p. 23).

on which the committee has already delivered its opinion should be completed in accordance with Article 5a of Decision 1999/468/EC.

- (13) In order to ensure uniform conditions for the implementation of Article 4(2) and (3) of Regulation (EU) No 715/2007, 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 Council¹².
- (14) Since the objectives of this Regulation, namely to lay down rules on emissions from motor vehicles in order to contribute to the achievement of the basic air quality objectives, cannot be sufficiently achieved by the Member States as motor vehicles with a valid type approval may be marketed across national boundaries but can rather, by reason of the scale and effects of the action, 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 those objectives.
- (15) Regulation (EC) No 715/2007 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 715/2007 is amended as follows:

- (1) Article 2(2) is replaced by the following:

“2. At the manufacturer's request, type approval granted under this Regulation may be extended from vehicles covered by paragraph 1 to M₁, M₂, N₁ and N₂ vehicles as defined in Annex II to Directive 2007/46/EC with a reference mass not exceeding 2 840 kg and which meet the requirements of this Regulation.”;
- (2) in Article 3, the introductory wording is replaced by the following:

“For the purposes of this Regulation, the following definitions shall apply: ”;
- (3) Article 4 is amended as follows:
 - (a) paragraph 1 is replaced by the following:

“1. Manufacturers shall demonstrate that all new vehicles sold, registered or put into service in the Community are type approved in accordance with this Regulation. Manufacturers shall also demonstrate that all new replacement pollution control devices requiring type approval which are sold or put into service in the Community are type approved in accordance with this Regulation.

Those obligations include meeting the emission limits set out in Annex I. For the purposes of determining compliance with the Euro 6 emission limits set out in Table 2 of Annex I, the emission values determined during any valid Real Driving Emissions (RDE) test shall be divided by the applicable conformity factor set out in

¹² Regulation (EU) 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 (OJ L 55, 28.2.2011, p. 13).

Table 2a of Annex I. The result shall remain below the Euro 6 emission limits set out in Table 2 of that Annex.”;

(b) paragraph 4 is replaced by the following:

“4. The Commission shall, by means of implementing acts, establish the specific procedures and requirements referred to in paragraphs 2 and 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2).”;

(4) Article 5 is amended as follows:

(a) paragraph 1 is replaced by the following:

“1. The manufacturer shall equip vehicles so that the components likely to affect emissions are designed, constructed and assembled so as to enable the vehicle, in normal use, to comply with this Regulation.”;

(b) in paragraph 3, the introductory sentence is replaced by the following:

“3. The Commission is empowered to adopt delegated acts in accordance with Article 14a in order to supplement paragraphs 1 and 2 by laying down specific requirements and developing the specific procedures, tests and requirements for type-approval set out in this paragraph relating to in particular:”;

(5) in Article 6(7), the second sentence is replaced by the following:

“In the event that such information is not yet available, or does not yet conform to this Regulation at that point in time, the manufacturer shall provide it within six months from the date of type approval.”;

(6) Article 8 is replaced by the following:

“Article 8

Delegated acts on access to vehicle repair and maintenance information

The Commission is empowered to adopt delegated acts in accordance with Article 14a in order to supplement Articles 6 and 7. This shall include the definition and updating of technical specifications relating to the way in which OBD and vehicle repair and maintenance information shall be provided, with special attention being paid to the specific needs of SMEs.”;

(7) Article 10 is amended as follows:

(a) paragraph 1 is replaced by the following:

“1. With effect from 2 July 2007, if a manufacturer so requests, the national authorities may not, on grounds relating to emissions or fuel consumption of vehicles, refuse to grant EC type approval or national type approval for a new type of vehicle, or prohibit the registration, sale or entry into service of a new vehicle, where the vehicle concerned complies with this Regulation, and in particular with the Euro 5 limit values set out in Table 1 of Annex I or with the Euro 6 limit values set out in Table 2 of Annex I, subject to the second subparagraph of Article 4(1).”

(b) paragraphs 4 and 5 are replaced by the following:

“4. With effect from 1 September 2014, and from 1 September 2015 in the case of category N₁ class II and III and category N₂ vehicles, the national authorities shall refuse, on grounds relating to emissions or fuel consumption, to grant EC type approval or national type approval for new types of vehicle which do not comply

with this Regulation, and in particular with the Euro 6 limit values set out in Table 2 of Annex I.

The compliance with the Euro 6 limit values shall, during any valid RDE test, be determined by taking into account the pollutant-specific conformity factor set out in Table 2a of Annex I in accordance with the second subparagraph of Article 4(1).

5. With effect from 1 September 2015, and from 1 September 2016 in the case of category N₁ class II and III and category N₂ vehicles, national authorities shall, in the case of new vehicles which do not comply with this Regulation, and in particular with the Euro 6 limit values set out in Table 2 of Annex I, ["as determined in accordance with the second subparagraph of paragraph 4",] consider certificates of conformity to be no longer valid for the purposes of Article 18 of Directive 2007/46/EC and shall, on grounds relating to emissions or fuel consumption, prohibit the registration, sale or entry into service of such vehicles.

The compliance with the Euro 6 limit values shall, during any valid RDE test, be determined by taking into account the pollutant-specific conformity factor set out in Table 2a of Annex I in accordance with the second subparagraph of Article 4(1).";

(8) Article 11(1) is replaced by the following:

"1. For new replacement pollution control devices intended to be fitted on vehicles approved under this Regulation, national authorities shall prohibit their sale or installation on a vehicle if they are not of a type in respect of which a type approval has been granted in compliance with this Regulation.";

(9) in Article 12(1), the first subparagraph is replaced by the following:

"1. Member States may make provision for financial incentives that apply to vehicles in series production which comply with this Regulation.";

(10) in Article 14, paragraphs 2 and 3 are replaced by the following:

"2. The Commission is empowered to adopt delegated acts in accordance with Article 14a in order to adopt the following measures based on the results of the UNECE Particulate Measurement Programme, conducted under the auspices of the World Forum for Harmonisation of Vehicle Regulations, without lowering the level of environmental protection within the Union:

(a) amend this Regulation for the purposes of reviewing the particulate mass and particle number limit values set out in Annex I;

(b) supplement this Regulation by the adoption of a revised measurement procedure for particle numbers.

3. The Commission is empowered to adopt delegated acts in accordance with Article 14a:

(a) supplementing this Regulation in order to adapt the procedures, tests and requirements as well as the test cycles used to measure emissions in order to adequately reflect real driving emissions;

(b) amending this Regulation in order to adapt to technical progress the pollutant-specific final conformity factors set out in Table 2a to Annex I.";

(11) the following Article 14a is inserted:

"Article 14a

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 5(3), Article 8 and Article 14(2) and (3) shall be conferred on the Commission for a period of five years from ... [*date of entry into force*]. 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.
3. The delegation of power referred to in Article 5(3), Article 8 and Article 14(2) and (3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke 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.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 5(3), Article 8 and Article 14(2) and (3) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two 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 two months at the initiative of the European Parliament or of the Council.”;

(12) Article 15 is replaced by the following:

“Article 15

Committee procedure

1. The Commission shall be assisted by the committee referred to in Article 40(1) Directive 2007/46/EC. 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.”;

(13) Annex I is amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall not affect pending procedures under Article 5(3), Article 8 and Article 14(2) and (3) of Regulation (EC) No 715/2007 in which the committee has already delivered its opinion in accordance with Article 5a of Decision 1999/468/EC.

Article 3

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

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