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## EUROMOT POSITION

### Comments on proposed Regulation complementing EU type-approval legislation with regard to the withdrawal of the United Kingdom from the Union (COM/2018/397/FINAL)

10 July 2018

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EUROMOT, representing the manufacturers of engines type-approved for use in non-road mobile machinery, including construction, agricultural and industrial equipment, railway locomotives and inland waterway vessels, welcomes the new proposal for a regulation to provide a way forward for manufacturers holding UK-issued EU type-approvals when the UK leaves the Union. These approvals are not just used by UK companies but are relied upon by various manufacturers across the EU-28 and the rest of the world as the basis for placing products on the Union market.

Given the thousands of UK-issued approvals to be converted to Union approvals and the deadline of 30 March 2019 for that conversion it is essential to finalise this regulation so that it can enter force no later than six months prior to that date.

Engine emission regulation in the non-road sector is unique in setting regulation based on a combination of production and placing on market dates, which, by intent of the co-legislators, may be separated by a period of months or even years. This recognises the global nature of the production and supply chain where the engines may originate from, and be shipped to, any part of the EU-28 or rest of the world, before finally the finished excavator, tractor or locomotive is placed on the Union market.

Furthermore, as designed by co-legislators, there are a number of transition provisions and exemptions that do not require an existing valid type-approval for placing on the market but instead rely upon an 'old' invalidated EU type-approval as evidence of conformity to a prior emission level.

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ENGINE IN SOCIETY

A European Interest Representative (EU Transparency Register Id. No. 6284937371-73)

A Non Governmental Organisation in observer status with the UN Economic Commission for Europe (UNECE) and the UN International Maritime Organisation (IMO)

Key areas where amendments should be made to the proposed regulation are as follows (see the **Annex** of this paper for detailed proposed wording):

### **1. Clear identification of when conversion to Union type-approval is required**

It is necessary to ensure that the proposed regulation sets out clearly the cases when a conversion to a Union type-approval is required, and where it is not required because that approval already became invalid before Union law ceased to apply in the UK. This is for cases where that invalidated approval is now only used as evidence of conformity to a prior emission level, and a valid approval is not required at the time of placing on the market, irrespective of which member-state issued the original type-approval. The proposed amendment to Article 4(2) is intended to achieve this by identifying the applicable exemption and transition provisions.

### **2. Recognition of markings of engines already in the supply chain**

The non-road mobile machinery and agricultural tractor engine emission regulations require that the engine is marked with the type-approval number at the time of production, which may be months or years prior to placing on the market. Consequently, where a new Union approval is obtained, even if the manufacturer immediately starts marking all new production with the new type-approval number, there will be a substantial amount of stock already produced and shipped for installation in the non-road mobile machinery, that will be marked with the prior UK approval number rather than the new Union approval number. It is impractical to locate and re-label already produced stock and consequently the prior UK approval number should be recognised as equivalent to the new Union approval number. The proposed amendment to Article 5(4) is intended to provide such recognition.

### **3. Avoiding unnecessary re-testing of engines**

Emission testing of engines is an essential, but expensive and time-consuming, task. The UK approval authority will have only issued type-approvals where it had sufficient evidence that those tests had been properly performed. Consequently, specific tests should only be repeated where the Union approval authority has justified grounds, not simply as a matter of preference of that authority. The proposed amendment to Article 5(3) is intended to provide this clarity.

Whilst seeking a speedy conclusion and publication of the regulation, EUROMOT urges that members of the European Parliament and the Council propose, or support others in their proposal of, the above amendments to improve this draft regulation. EUROMOT welcomes any questions and remains open to provide further supporting information on the above points.

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**For more information please contact:**

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**ANNEX****Proposal for AMENDMENTS TO REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL complementing EU type-approval legislation with regard to the withdrawal of the United Kingdom from the Union (COM/2018/397/FINAL)**

(Underlines indicate proposed new text)

- (1) New draft recital for amendment to paragraph 2 of Article 4:

...

**(5a) It is neither appropriate nor necessary for manufacturers to obtain new approvals in the case of vehicles and separate technical units where the approval became invalid prior to the day when Union law ceases to apply in and to the United Kingdom, the continued placing on the Union market of which is only permitted by an exemption or transition provision in existing Union legislation.**

...

- (2) New draft recital for amendment to paragraph 3 of Article 5:

...

**(8a) In order to account for diverse supply chains, maintain continuity and to avoid preventing already produced stock of compliant vehicles, systems, components and separate technical units being made available on the Union market, where manufacturers obtain new approvals from authorities within the Member States of the Union other than the United Kingdom it should be ensured that the prior United Kingdom markings affixed to those products at the time of their production continue to be accepted as evidence of compliance.**

...

- (3) Modified recital for amendment to paragraph 4 of Article 5:

...

(13) At the same time, since type-approval authorities are to be fully responsible for the new approvals they grant, they should have the discretion to require new tests to be carried out for any element of the approval they see fit **where there are justified grounds for those new tests.**

...

- (4) Amendments to Article 4:

*Article 4*

Application for a Union type-approval

1. ...

2. In order to be approved, the type must comply at least with the requirements for the placing on the market, registration or entry into service of new vehicles, systems, components or separate technical units applicable at the time when the Union type-approval takes effect. **This shall not include types that only comply with the requirements for the placing on the market by virtue of any of Article 10(7) of Directive 97/68/EC, Articles 34(7), 34(8) or 58(5) to 58(11) of Regulation (EU) 2016/1628, Article 14 of**

**Delegated Regulation (EU) 2015/96, Article 13(3) to 13(6) of Delegated Regulation (EU) 2018/985, for which the UK type-approval became invalid before the day when Union law ceases to apply in and to the United Kingdom and no valid type-approval is required at the time of placing on the Union market.**

3. ...

(5) Amendments to Article 5:

*Article 5*

Conditions for the granting of a Union type-approval and its effects

1. ...

2. ...

3. Before granting a Union type-approval, the Union type-approval authority may request the repetition of specific tests **where there are justified grounds.** In that case the test must be carried out by a technical service which has been designated and notified by the Member State of the Union type-approval authority in accordance with Directive 2007/46/EC, Regulation (EU) No 167/2013, Regulation (EU) No 168/213 or Regulation (EU) 2016/1628.

4. The type approved in accordance with paragraph 1 shall receive an EU type-approval certificate with a number consisting of the distinguishing number of the Member State whose type-approval authority granted the Union type-approval and of the number of the applicable act referred to in Article 2(1). It shall also include the number of the latest amending act containing requirements for type-approval in accordance with which the Union type-approval is granted. For vehicles, the type-approval certificate and the certificate of conformity shall, under 'Remarks:', contain the mention "Previously type-approved as" and refer to the number of the type-approval certificate received following the UK type-approval. For systems, components or separate technical units, the type-approval certificate shall contain the mention "Previously type-approved and marked as" and refer to the marking received following the UK type-approval. **Where affixed to the vehicle, system, component or separate technical unit during production in conformity with the requirements of the Regulation or Directive applying at that moment, the marking received following the UK type-approval and mentioned in the Union type-approval certificate shall be recognised as equivalent to the marking of the Union type-approval.**

...

EUROMOT is the European Association of Internal Combustion Engine Manufacturers. It is committed to promoting the central role of the IC engine in modern society, reflects the importance of advanced technologies to sustain economic growth without endangering the global environment and communicates the assets of IC engine power to regulators worldwide. For more than 20 years we have been supporting our members - the leading manufacturers of internal combustion engines in Europe, USA and Japan - by providing expertise and up-to-date information and by campaigning on their behalf for internationally aligned legislation. The EUROMOT member companies employ all over the world about 200,000 highly skilled and motivated men and women. The European market turnover for the business represented exceeds 25 bn euros. Our **EU Transparency Register** identification number is **6284937371-73**.

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