

ROADMAP

Roadmaps aim to inform citizens and stakeholders about the Commission's work to allow them to provide feedback and to participate effectively in future consultation activities. Citizens and stakeholders are in particular invited to provide views on the Commission's understanding of the problem and possible solutions and to share any relevant information that they may have.

TITLE OF THE INITIATIVE	Regulation complementing EU type-approval legislation with regard to the UK withdrawal from the European Union (Brexit preparedness)
LEAD DG – RESPONSIBLE UNIT	GROW-C4
LIKELY TYPE OF INITIATIVE	Regulation
INDICATIVE PLANNING	May 2018
ADDITIONAL INFORMATION	http://ec.europa.eu/growth/sectors/automotive/technical-harmonisation/eu_en

This Roadmap is provided for information purposes only. It does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content. All elements of the initiative described by the Roadmap, including its timing, are subject to change.

A. Context, problem definition and subsidiarity check

Context

The European legislation foresees that a type-approval needs to be issued for the placing on the market of vehicles, systems, components and separate technical units as provided in

- Directive 2007/46/EC concerning the type-approvals of motor vehicles and trailers (to be replaced by a Regulation which will be applicable as from 1 September 2020);
- Regulation (EU) No 167/2013 concerning the type-approval of two- and three-wheeled vehicles and quadricycles;
- Regulation (EU) No 168/2013 concerning the type-approval of agricultural and forestry vehicles; and
- Regulation (EU) 2016/1628 concerning the type-approval of engines for use in non-road mobile machinery.

The legislation relies on the recognition of type-approvals issued in one Member State throughout the Union. While manufacturers can choose the Member State where they apply for type approval, they are only allowed to apply for the approval of a particular type in one Member State to avoid type approval shopping. By issuing a type approval, an EU type-approval authority also becomes responsible for ensuring conformity of production and, for motor vehicles, in-service conformity under the type-approval.

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date'). The United Kingdom will then become a 'third country'.

This means that as of the withdrawal date, the United Kingdom type approval authority will cease to be an EU type-approval authority and will no longer be able to fulfil any of the powers and obligations of a type-approval authority under EU legislation. Manufacturers who obtained approvals in the United Kingdom in the past will need new approvals from EU-27 type approval authorities, including for products already in production, in order to ensure continued compliance with EU law.

Significant legal uncertainty has been identified in this context, which this initiative aims to address.

Problem the initiative aims to tackle

The following problems have been identified in ensuring the continued compliance with EU law after the UK withdrawal by manufacturers holding type-approvals issued by the United Kingdom type approval authority:

- The existing type approval legislation does not allow manufacturers to apply for the approval of the same type in more than one Member State, hence hindering the replacement of type-approvals issued by the United Kingdom by type approvals issued by EU-27 type approval authorities;
- Existing test reports may only be (re-)used if they have been issued by technical services which had previously been notified and designated by the EU-27 Member State whose approval authority intends to use it;

- From the date of withdrawal, United Kingdom technical services will be regarded as technical services of third countries, which under current provisions may only be notified in the framework of a bilateral agreement between the Union and the third country in question;
- New applications for type-approvals under current provisions need to comply with the requirements for new types. For example, in the case of motor vehicles, the requirements of eCall are mandatory for all new types being type-approved as of 1 April 2018, but are not mandatory for all newly registered vehicles under existing type-approvals. Having to meet these new type requirements may thus seriously disadvantage manufacturers who chose the United Kingdom for their type approval compared to those who hold an EU-27 type approval, since the latter will only need to meet new vehicle requirements for their types already in production;
- Finally, once the United Kingdom type-approval authority has ceased to be an EU type-approval authority, it can no longer ensure the conformity of production and in service conformity of products already in circulation. A responsible type-approval authority is also needed for the recall of a product that is not in conformity with safety or environmental requirements.

The aim of the initiative is to tackle these issues to facilitate continued compliance with EU law by manufacturers having obtained type-approvals in the United Kingdom and ensure a level playing field between them and manufacturers having obtained a type-approval in the EU-27.

Basis for EU intervention (legal basis and subsidiarity check)

The legal basis is Article 114 of the Treaty on the Functioning of the European Union.

The type-approval legislation at present is harmonised at EU-level. As a consequence, it can only be modified by another act adopted by the co-legislators. The Member States have no means of achieving the same result or addressing the problem without action by the Union. Therefore, this initiative fully respects the principle of subsidiarity.

B. What does the initiative aim to achieve and how

The present initiative aims to ensure continued compliance with EU law by manufacturers holding type-approvals issued by the United Kingdom type-approval authority by addressing the identified problems above as follows:

- ***'Re-issue' of type-approval:*** The proposal intends to allow manufacturers with type-approvals issued by the United Kingdom to apply with the type-approval authority of an EU-27 Member State for new type-approvals for the same types already in production;
- ***Test reports:*** The proposal intends to allow, where the tested requirements have not changed, reusing existing test reports for the new applications regardless of whether the technical service in question has been previously designated and notified by the Member State to whom the new type-approval authority belongs;
- ***New requirements:*** The proposal intends to allow type-approving against requirements all new vehicles need to meet for registration and not against the requirements which all newly approved models (types) have to meet. This creates a level playing field between manufacturers holding a United Kingdom type approval and those already holding EU-27 approvals. These manufacturers must equally adapt their ongoing production to comply with new vehicle requirement;
- ***Conformity of production and in-service conformity:*** Finally, the proposal intends to ensure full responsibility of EU-27 type-approval authorities for the new approvals they have issued, and also obligations for in-service conformity and conformity of production for vehicles (products) already on the market under the United Kingdom type-approval.

The initiative is based on a careful legal analysis of the type-approval legislation, which identified the measures above as the only option for addressing the legal uncertainty associated with the problems listed above. The initiative will take the form of a targeted stand-alone regulation that will complement the existing type-approval legislation. The initiative will be limited in time.

As regards impacts, the modifications proposed in this initiative will not lower the requirements regarding the safety or environmental performance of the vehicles, systems, components or separate technical units in production. It will not grant any advantages to manufacturers with UK type-approvals, compared to manufacturers with EU-27 type-approvals. On the contrary, the initiative will simply allow manufacturers to continue producing their products in compliance with applicable legal requirements without interrupting their existing production, which could have caused significant social and economic impacts. In facilitating manufacturers' compliance with EU law, the initiative will also ensure the protection of consumers and citizens.

C. Better regulation

Consultation of citizens and stakeholders

The challenges arising for type-approval from the United Kingdom's withdrawal from the EU were raised and discussed at several meetings with Member States and brought to the attention of the Commission by manufacturers and the associations representing them.

The general public and interested parties will be able to provide feedback on this roadmap as well as on the adopted proposal.

Evidence base and data collection

- Oral and written feedback from manufacturers and Member States, see above.
- A legal analysis of the type-approval legislation underpinning two notices to stakeholders: [Guidance to stakeholders on impact on type-approval of motor vehicles](#) of 8 February 2018 and [Guidance to stakeholders on impact on type-approval of certain vehicles and engines](#) of 28 March 2018.