



COMMISSION OF THE EUROPEAN COMMUNITIES

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98/0097 (SYN)

**Proposal for a
COUNCIL DIRECTIVE
on the roadside inspection of the roadworthiness of commercial vehicles
circulating in the Community**

(presented by the Commission)

EXPLANATORY MEMORANDUM

A. GENERAL

1. Introduction

This proposal concerns a legal framework for the roadside inspection of commercial vehicles, both passenger and freight carriage, and has as its primary objective the enhancement of safety and environmental protection in road transport within the Community. It also aims at the creation of a level playing field regarding the quality of maintenance of the commercial vehicles circulating within the Community by discouraging irresponsible operators from attempting to gain a competitive advantage by operating inadequately maintained vehicles. These practices currently undermine the creation of equitable conditions of competition in the internal road haulage market, a situation that is likely to be aggravated by the advent of full liberalization on 1 July 1998. There is, therefore, clearly a case for Community intervention to address this problem.

The scope of the proposal does not include passenger cars. This category of vehicle may be the subject of a later amendment after appraisal in the framework of the current Auto-Oil II Programme (see point 6).

The adoption of Directive 96/96/EC¹ has already ensured that commercial road vehicles (other than car derivatives) undergo annual roadworthiness inspection in testing centres. However, given the increasing international nature of commercial vehicle operation, and that many of the heaviest vehicles travelling 150 000 km/year or more, an annual inspection is unlikely to provide sufficient assurance that commercial vehicles operating on Community territory do so with an acceptable standard of maintenance throughout the year.

Clearly, it is in the interests of road safety, environmental protection and equitable competition that all vehicles are only operated if they are maintained to a high degree of roadworthiness.

The proposal requires Member States to supplement the annual roadworthiness test with unexpected inspections of a representative proportion of the commercial vehicle fleet on their roads each year. These inspections can be carried out at the roadside, at ports, at other locations where vehicles are parked or, more frequently in the case of Public Service Vehicles (PSVs), at operators' premises.

The proposal does not specify the number of vehicles or the proportion of the fleet that Member States will need to inspect. This is because the fleet of vehicles circulating on the roads varies between Member States (the fleet being made up of vehicles registered in the Member State, vehicles from other Member States and those from third countries). Also, the frequency and intensity of the regular roadworthiness tests vary between Member States and any other national initiatives, such as roadside inspections and other controls, will affect the general quality of maintenance of the vehicles on their roads.

¹ OJ L 46, 17.2.1977, p. 1.

It must therefore be the responsibility of Member States to determine the scale of the roadside inspection programme bearing in mind that it should relate to the average maintenance standard of the commercial vehicles on its roads.

2. Method of roadside inspection

Targeting operators with a poor maintenance record and visual screening of vehicles (lights not working, bald tyres, excessive smoke) will give a high "success rate" and will help to ensure that public resources are used to their greatest effect.

It will be important to ensure that roadside inspections are carried out without discrimination on grounds of the nationality of the driver or of the country of registration of the commercial vehicle. The Commission Services will review the comprehensiveness and character of Member States' roadside inspection practices through the biannually reports submitted by Member States.

This proposal therefore, prescribes a three-stage approach to roadside inspection:

1. The first stage is the visual inspection by a trained vehicle examiner of the maintenance condition of the vehicle passing on the road. The vehicle examiner would need to suspect that the vehicle is inadequately maintained before proceeding to the second stage;
2. The second stage involves a cursory inspection of the stationary vehicle which includes a check on roadworthiness documentation (i.e. proof that the vehicle had undergone its statutory roadworthiness test in accordance with Article 3(1) of Directive 96/96/EC or had undergone a roadside inspection). If the examiner still suspects that the vehicle is unroadworthy, then the inspection proceeds to a third stage;
3. The vehicle is examined at the roadside for maintenance irregularities such as: excessive smoke opacity, bald or damaged tyres, inoperable lights and signalling devices, speed limiter malfunction (by checking the tachograph) and, as far as is practical, inadequate braking. If there is continued doubt or where the extent of the maintenance deficiency needs further quantification, the vehicle may be further inspected and assessed at a roadworthiness test centre.

If, following the roadworthiness inspection, the vehicle does not comply with the standard of roadworthiness stipulated in the proposal's technical annex, and is considered to present a serious risk to its occupants or other road users, the vehicle may be banned immediately from use on the public roads.

Roadside inspections on the maintenance condition of commercial vehicles can be combined with other road traffic enforcement checks, such as those concerning drivers hours, weights and dimensions, vehicle circulation taxation, driver licence/access to the profession requirements, etc. Therefore, the overall cost to the vehicle operator and the authorities can be shared with other enforcement programmes.

3. The case for roadside inspections of commercial vehicles

The objective of improving the quality of in-year maintenance could also be met to a certain degree by increasing the frequency of statutory testing, for example to two or three times a year. This would still not guarantee that operators maintained standards in between tests but it could in most cases be expected to result in higher levels of compliance. However, the additional burden to both the authorities and the operating industry would be considerable and would, most probably, outweigh the potential benefits. Furthermore, such an approach would unduly and unnecessarily penalize responsible operators.

A programme of roadside inspections, on the other hand, can be introduced at significantly lower costs but with the important added benefit of targeting vehicles which are in active use rather than those which have been prepared for the annual test." Some unscrupulous operators are known to fit new tyres, reset the speed limiter, or fill the motor vehicle with low sulphur fuel ("clean diesel") in order to pass the roadworthiness test, only to revert the vehicle to its poorly maintained and illegal state after receiving a satisfactory roadworthiness certificate. Other operators treat the annual test as a cheap maintenance assessment. Unscheduled and therefore, as far as the operator is concerned, unexpected, roadside or fleet spot checks act as an incentive for enhanced maintenance and will help discourage irresponsible operator practices.

This consideration is supported by an analysis of a recent targeted police coordinated check in the UK (although not the only Member State to carry out roadside inspections). Over 6 000 HGVs were stopped, out of which approximately 2 000 were examined in detail. Of the vehicles examined, 33% had some form of defect that would have been serious enough to fail the regulated roadworthiness test and in over 13% of the vehicle examined, the defect(s) was so serious as to warrant the immediate prohibition of the vehicles from circulation.

The number of HGVs and PSVs which fail the emissions check in the annual roadworthiness test is about half the number failing at a roadside check, according to the UK's annual report by their Vehicle Inspectorate on the effectiveness of the Inspectorate's enforcement work. This supports the view that many vehicles might be able to pass the annual test as far as emissions are concerned but do not have an appropriate level of roadworthiness in the months following the annual inspection.

4. Cost-benefit aspects of roadside inspection

4.1 Cost

It should be borne in mind that there is a general scarcity of data on the cost and benefits associated with roadworthiness inspection, in particular with regard to its contribution to ambient pollution reduction. Indeed, the costs and benefits will be a matter for Member States to determine in the light of their individual circumstances. However, there is useful data from the UK which gives a good indication of costs of implementing roadside inspection at a certain level of intensity and which provides some information on the added benefit of roadside inspection over and above annual testing.

The cost for the authorities of a roadside inspection scheme can be derived from the UK example where the Vehicle Inspectorate spends around GBP 4 million on roadside enforcement checks for commercial vehicles. The total time devoted to this task is in the order of 12 000 man days. Establishing an overall cost estimate for the Community as a whole may be difficult given that the intensity of the level of application of the proposed directive is left to the Member States. However, on the basis of the UK example it is reasonable to assume that the total cost for the Community if all Member States adopted a similar testing programme would be in the order of ECU 40-60 million per year (i.e. based on the assumption that there are around ten times as many relevant vehicles in the Community and that average wage rates are similar).

The costs to the operators should be in proportion to the maintenance condition of the operator's fleet, i.e. the more obviously poorly maintained vehicles should suffer a greater roadside testing frequency than vehicles that are well maintained. Whereas, it is assumed that the time spent by the operators will be similar to that spent by the inspecting authorities, it is acknowledged that the cost for the operator also includes the productivity losses due to stopping of the vehicle. Assuming that the total cost to the operators is about twice that for the authorities, costs would be in the order of ECU 80-120 million per year. Costs for repair and fines should also be considered in the total cost to the commercial vehicle operator industry. Total costs for the Community as a whole would be in the neighbourhood of ECU 120 - 180 million.

4.2 Benefits

It is possible to provide some form of estimate on the benefits of a properly maintained fleet, in terms of accident and pollution reduction, and energy conservation. However, an accurate estimate of the effectiveness of enhanced roadworthiness enforcement in attaining a properly maintained fleet will be dependent on the effort the authorities are prepared to make and the initial state of the commercial vehicles on the Member State's roads. Such an estimate is therefore difficult to make.

Safety benefits

Recent extensive studies of fatalities involving heavy goods vehicles (HGVs) over a three-year period gave the following results:

- HGVs are more likely to be involved in fatal accidents than the numbers of such vehicles on the road, or the mileage they cover, would suggest;
- just over 6% of all HGVs had serious defects which were a contributory cause of the accident or fatalities;
- most (two-thirds) of these defects concerned defective brakes resulting from lack of proper maintenance;
- around 3.4% of all fatalities in HGV accidents would be prevented if HGVs were kept properly maintained at all times.

Given that HGVs cause around 20% of the current Community-wide road accident fatalities rate of 45 000 each year, and assuming that 3.4% of fatalities could be prevented, then the maximum potential hard economic cost savings gained from ensuring that these vehicles are always adequately maintained while on the Union's roads could well be in the order of ECU 306 million per year. These benefits are conservative as they are based on estimates of only the hard economic cost (of ECU 1 million) for every fatality accident in the Commission's Communication "Promoting Road Safety in the EU - The Programme for 1997-2001".

Experience from other forms of road safety enforcement can be used to assess the probable effectiveness of roadside inspections in bringing about an improvement in the compliance with roadworthiness legislation. Judging by the performance of other roadside enforcement campaigns, there is the potential to reduce non-compliance by approximately 50%. If this can be related to the proposed roadside inspection scheme for commercial vehicles, then an improvement in vehicle maintenance of 50% could result.

Therefore, assuming that roadside enforcement has the realistic potential of improving the maintenance of the fleet by around 50%, then the financial benefits of such enforcement should be in the order of $ECU 0.50 \times ECU 306 \text{ million/year} = ECU 153 \text{ million}$.

Consequently, there is every expectation that the benefit of the potential reductions in road accidents more than covers the cost of the additional legislative requirements. However, added to this benefit must be the effect on pollution reduction and the savings in fuel consumption which are discussed below.

Environmental Benefits

Estimating the potential reduction in pollution from inspection and maintenance measures has been introduced with the Auto-Oil I Programme and refining of the findings, under inclusion of the estimated effects of the enforcement measures, will be one of the challenges of the Auto-Oil II Programme. The Auto-Oil I Programme attributed a potential 10% reduction in diesel engine particulates caused by light vehicles through an enhanced testing scheme. More recently, a study undertaken on behalf of the Commission, assessed that the potential reduction in particulates from diesel passenger cars and light vans resulting from a well maintained fleet could be in the order of 25%. However, these estimates may not directly relate to heavier commercial vehicle emissions. Without doubt, the smoke opacity test is adequate for identifying most of the current fleets poorly maintained diesel engines. It is likely that the added benefit of roadside vehicle emission testing using the current test procedures for measuring diesel exhaust smoke will diminish as the fleet modernizes. Therefore, testing authorities around the world, not just within the Community, are anxious to develop more realistic testing techniques and equipment that can differentiate between the in-service emission performance of modern diesel engines.

Nevertheless, the current test techniques combined with a visual appraisal of the vehicle's in-use emission performance, will identify vehicles that currently cause public offence and will positively identify most gross polluters. More effective identification of such vehicles will in addition help to improve fuel efficiency.

It is estimated that a correctly maintained fleet saves 2% fuel consumption (equivalent to an economic benefit of ECU 1 000 million per year) and an equivalent proportion of CO₂ emissions. Therefore, assuming that roadside inspections are 50% effective in improving the maintenance condition of the fleet, then a 1% fuel saving would equate to an economic benefit of around ECU 500 million per year.

Total costs and benefits

Adding the fuel-saving benefits to the benefits from improved road safety gives an estimate of about ECU 650 million. Obviously, this figure still excludes environmental benefits. Given costs of at most ECU 120 million, this proposal is justified on cost-benefit grounds.

5. Complementarity with Directive 96/96/EC

The Roadworthiness Directive 96/96/EC specifies the types of vehicles that need to be inspected, the minimum frequency of inspection (every year for trucks and buses), and the items that need inspection. It describes in some detail how to inspect the brakes and emissions and sets performance standards (minimum braking efficiencies, diesel smoke opacity, etc.).

The proposed Directive is a new Community initiative concerned with vehicle roadworthiness standardization in that it establishes a regime of roadside inspection of the most visual elements of the vehicle's safety and environmental protection systems and equipment. The proposal is therefore complementary to Directive 96/96/EC regarding the vehicles registered by a Member State. However, its scope is wider than Directive 96/96/EC in that it includes all relevant vehicles that circulate on a Member State's roads and not only vehicles registered in that Member State.

The testing methods and standards of roadside inspections that are contained within this proposal can equally be applied by Member States to vehicles from third countries that are used in the European Community. Indeed, the need to secure minimum levels of safety and environmental protection in the entire Community justifies that third-country vehicles should also be submitted to these roadside inspections (see point 7).

6. The relationship of the proposal with the Community's Auto-Oil Programme.

Inspection and maintenance was established as an important instrument for reducing transport emissions under the Community's first Auto-Oil (Auto-Oil I) Programme. Auto-Oil I was a tri-partite programme organized by the Commission and the oil and motor manufacturing industries which provided the technical foundation on which to base future proposals for legislation on new vehicles emission, fuel composition and roadworthiness standards that would be effective from the year 2000.

The Air Quality Study of the Auto-Oil I Programme predicted concentrations of benzene, carbon monoxide, and nitrogen dioxide in seven European cities, and ozone across Europe for the period 1990 to 2010. In addition, the effect of already agreed measures on emissions of particulate matter from the road transport sector were estimated. The programme was designed to identify the most cost-effective measures which could be introduced from the year 2000 to meet Community air quality targets by the year 2010

(allowing time for the fleet to turn over to the newer, cleaner technology). The Auto-Oil programme identified enhanced roadworthiness standards for light diesel-engined vehicles as having the potential to reduce the emissions of particulates by 10%.

Whereas, earlier debate centred on enhancing the standard of the current statutory roadworthiness test as defined in Directive 96/96/EC, it has become clear that the greatest short-term gain in environmental protection can be made through enforcement of adequate roadworthiness standards at all times, not just once every year.

It should therefore be noted that this proposal does not impose stricter roadworthiness test standards. Further proposed improvements to testing techniques will be presented to the Commission's Technical Adaptation Committee shortly. In the Auto-Oil II Programme, importance will be given to the assessment of the costs and benefits of alternative testing procedures that better represent real world driving patterns and assessment techniques for particulates.

Consequently, assessment of the maintenance condition of the diesel-engined vehicle's emission control will, as far as this proposal is concerned, continue to be made by reference to the opacity of the vehicle's exhaust smoke. It is recommended that the authorities target vehicles for inspection on the basis of their exhaust opacity while the vehicle is driven under engine loaded conditions.

7. Vehicles from third countries

Community law lays down a set of provisions enabling motor vehicles (and their trailers) to be driven freely throughout Community territory. Also, other provisions, coming under the Vienna Convention on road traffic², still apply in most Member States.

Austria, Belgium, Denmark, Finland, France, Germany, Greece, Italy, Luxembourg and Sweden are contracting parties to this Convention, which Portugal, Spain and the United Kingdom have signed but never ratified. The Community is not a contracting party.

For those Member States that are contracting parties to the Vienna Convention, the application of the safety standards contained in the proposal to third-country vehicles does not entail for them any infringement of their international obligations deriving from the Vienna Convention. In particular, reference can be made to Article 39 which states that "Every motor vehicle, every trailer and every combination of vehicles in international traffic shall satisfy the provisions of Annex 5 to this Convention. It shall also be in good working order".

Annex 5 allows Member States to impose stricter rules which are not inconsistent with the provisions of the Vienna Convention.

² Convention on road traffic, Vienna, 8 November 1968, comprising the amendments which entered into force on 3 September 1993. United Nations Economic Commission for Europe.

As far as vehicle emissions are concerned, the Convention is less specific. Annex 5 under "General Provisions" states:

"59. (a) The mechanical parts and equipment of a motor vehicle shall not, so far as this can possibly be avoided, give rise to any danger of fire or explosion; nor shall they cause excessive emission of noxious gases, opaque fumes, smells or noise."

However, an amendment to the Convention has recently been endorsed by Ministers at the United Nation's Regional Conference on Transport and the Environment in November 1997. This amendment includes a Regulation on roadworthiness testing which is identical in technical content to the environmental protection test methods of Directive 96/96/EC and therefore to the standards indicated in Annex II of this proposal. The standards of smoke opacity measurement contained within this proposal can be considered as defining the pollution limits that are considered to be "excessive" within the definition of the Vienna Convention.

8. Possible adaptation of the roadworthiness testing requirements in the future

The introduction of roadside inspection is the first step away from the traditional method where the State controls the maintenance of the national fleet, i.e. through the statutory roadworthiness test. Technology and operator practice changes and the roadworthiness scheme needs to respond to those changes. The following highlights potential areas of change that will be considered in the future.

- An expert team has been established whose aim is to examine how to improve the usability and reliability of the smoke metres currently used and develop a test methodology that can identify all high polluting engines in the roadworthiness test. Also, several authorities are examining ways of improving the current free acceleration smoke test to make it more repeatable and more effective in controlling the exhaust emission levels from diesel-engined vehicles on the roads. This work includes a survey of smoke measurement techniques used in other countries. The work is being assessed by the Commission, in the context of the Auto-Oil II Programme, with the view to incorporating its recommendations into the roadworthiness Directive 96/96/EC with possible consequences for the roadside inspection test.
- Operators that gain a high success in the annual test and also maintain their vehicles throughout the year could be awarded a "high quality" certificate and exempted from further annual testing. The burden of responsibility would then rest with the operator to ensure that his vehicles are always well maintained.
- When, in the future, On Board Diagnostics (OBD) are the norm for all major safety and environmental functions, then enforcement could move away from annual testing to an operator maintenance audit approach; perhaps based on automatic fault identification and recording on the vehicle, in the company or even via roadside infrastructure.

The Commission recognizes that the roadside inspection of passenger cars would also have benefits for both safety and environmental protection and invites Member States to assess the possibility of such inspections at the national level. The future introduction of OBD in passenger cars will also facilitate roadside enforcement.

Also, "remote roadside sensing" techniques are being assessed with regard to their potential for screening and selecting potentially gross polluting vehicles. These developments may make roadside inspection of passenger cars a particularly attractive option in ambient air pollution control. These aspects will be considered further under the Auto-Oil II Programme.

9. Consultation

In developing its proposal, the Commission consulted Member States' and EFTA countries governments, CITA, CLEPA, CECRA, EGEA, AIT/FIA, IRU, ACEA, EUROPIA and T&E.

B. JUSTIFICATION FOR ACTION AT COMMUNITY LEVEL

Subsidiarity

(a) *What are the proposed actions in relation to the Community's obligations?*

The proposal is a measure which complements the regime established by Directive 96/96/EC as amended.

The proposed action will ensure that commercial vehicles on the Community's roads are maintained to an acceptable level of safety and environmental protection.

(b) *Does competence for the planned activity lie solely with the Community or is it shared with the Member States?*

It is a competence shared between the Community and the Member States, according to Article 75(c) and (d) of the EC Treaty.

(c) *What is the Community dimension of the problem (for example, how many Member States are involved and what solution has been used up to now)?*

All Member States are already bound by Council Directive 96/96/EC which establishes regular roadworthiness inspections for these vehicles.

Transposition of the provisions of this proposed Directive into national law will ensure that sufficient levels of maintenance are enforced by Member States for commercial vehicles on their territory irrespective of whether or not the vehicle is operated in international transport or the vehicle is registered in a specific Member State.

(d) *What is the most effective solution taking into account the means available to the Community and those of the Member States?*

Inspection and Maintenance was established as an important instrument for reducing transport emissions under the Community's first Auto-Oil (Auto-Oil I) Programme.

Action at Community level is the only way to solve the problems of inadequate maintenance of the vehicles on Community roads.

In the event of serious and repeated infringement, the competent authorities of the Member State in which the vehicle is registered or in which the undertaking is established may be asked to take appropriate measures to ensure that only roadworthy vehicles are put into operation. Where, to that end, the competent Member State carries out an assessment of the quality of the undertaking's maintenance and inspection facilities then the other Member States concerned shall be notified of the results.

- (e) *What real added value will the activity proposed by the Community provide and what would be the cost of inaction?*

It is anticipated that the enforcement of these roadside inspections will provide the incentive for a rapid improvement in the maintenance condition of the commercial vehicles on the European Union's roads, particularly those from third countries that transit the European Union. Consequently the proposal will improve road safety and reduce the environmental impact of transport. Total estimated monetized benefits are in the order of ECU 650 million whereas costs to the Community as a whole were estimated to be in the order of ECU 120 - 180 million. In addition, important non-monetized environmental benefits were considered.

- (f) *What forms of action are available to the Community (recommendations, financial support, regulation, mutual recognition, etc...)?*

It is considered that a Directive is the best means available of achieving the goal of free circulation of commercial vehicles that are maintained to acceptable standards of roadworthiness. A Directive would allow the flexibility of amending existing national rules rather than abandoning these for a Regulation. A recommendation is insufficient, it is not a legally binding act.

- (g) *Is it necessary to have a uniform Regulation, or is a Directive setting out the general objectives sufficient, leaving implementation at the level of the Member States?*

The adoption of a Council Directive is the appropriate procedure for laying down a legal framework to ensure adequate safety, environmental protection and equity of competition, while leaving the means of enforcement and the implementation of the Directive to Member States.

C. SCOPE OF THE PROPOSAL

The scope of this proposed Directive will include certain vehicles that are subject to Roadworthiness Testing within the scope of Directive 96/96/EEC. These vehicles are defined in Annex I to Directive 96/96/EC as:

Category 1 - motor vehicles used for the carriage of passengers and with more than eight seats, excluding the driver's seat.

Category 2 - motor vehicles used for the carriage of goods and having a maximum permissible mass exceeding 3 500 kg.

Category 3 - trailers and semi-trailers with a maximum permissible mass exceeding 3500 kg.

D. CONTENTS OF THE PROPOSAL

Article 1 outlines the purpose of this proposal and determines its scope.

Article 2 defines the following terms:

- vehicle
- roadside inspection
- roadworthiness test.

Article 3 establishes the three-stage approach to the "targeted" roadside inspections.

Article 4 defines the extent to which Member States shall carry out roadside inspections.

Article 5 defines the technical content of the roadside inspection and the consequences for vehicles that fail that inspection.

Article 6 sets out the mutual responsibility that each Member States has for informing other Member States on operators that do not meet the requirements of the roadside inspection.

Article 7 and Article 8 describe the procedure to be followed in the Committee for technical adaptation.

Article 9 lays down national sanctions.

Article 10 contains provisions concerning the transposition of this Directive into the national laws.

Annex I gives a "checklist" for the authorities giving details of the vehicles that are to be inspected together with driver information, a copy of which is for the driver's records.

Annex II gives the technical requirements of the roadside inspection.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular points (c) and (d) of Article 75(1) thereof,

Having regard to the proposal from the Commission³,

Having regard to the opinion of the Economic and Social Committee⁴,

Acting in accordance with the procedure laid down in Article 189c of the Treaty in cooperation with the European Parliament⁵,

1. Whereas the growth of traffic presents all Member States with road safety and environmental problems of a similar nature and seriousness;
2. Whereas it is in the interests of road safety, environmental protection and equitable competition that commercial vehicles should be operated only if they are maintained to a high degree of roadworthiness;
3. Whereas roadside inspections should be carried out without discrimination on grounds of the nationality of the driver or of the country of registration of the commercial vehicle;
4. Whereas checks on the roadworthiness of commercial vehicles, in accordance with Council Directive 96/96/EC of 20 December 1996 on the approximation of the laws of the Member States relating to roadworthiness tests for motor vehicles and their trailers⁶, ensure that these vehicles undergo an inspection by an authorized body every year;
5. Whereas the regulated annual roadworthiness test is considered not to be sufficient to guarantee that those vehicles tested are in a roadworthy condition throughout the year;
6. Whereas effective enforcement through targeted additional roadside inspection is an important and cost-effective measure to control the standard of maintenance of commercial vehicles on the road;

³ OJ C

⁴ OJ

⁵ OJ

⁶ OJ L 46, 17.2.1997, p. 1.

7. Whereas, in accordance with the subsidiarity and proportionality principles as set out in Article 3b of the Treaty, the objectives of the proposed action, namely to establish a regime of roadside inspections of commercial vehicles circulating in the Community, cannot be sufficiently achieved by the Member States and can, therefore, by reason of the scale of the action be better achieved by the Community; whereas this Directive confines itself to the minimum required in order to achieve those objectives and does not go beyond what is necessary for that purpose;
8. Whereas the method of inspection selection should be based on a targeted, staged approach giving the greatest effort to identifying vehicles that seem most likely to be poorly maintained and thereby enhancing the authorities' operational effectiveness and minimizing the costs and delays to drivers and operators;
9. Whereas the Council, in the context of the discussions of the Auto-Oil Programme, has invited the Commission to present proposals which would ensure the simultaneous applicability of Directives on vehicle type-approval standards, fuel quality and on technical controls;
10. Whereas in the event of serious and repeated infringements, it should be possible for the competent authorities of the Member State in which the vehicle is registered or in which the relevant undertaking is established to be requested to take appropriate measures; whereas those authorities should inform the Member State making such request of any follow-up measures taken;
11. Whereas each Member State should determine the penalties to be imposed in the event of an infringement of the provisions adopted for the implementation of this Directive,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. This Directive establishes a regime of roadside inspections of the roadworthiness of commercial vehicles circulating in the Community.
2. This Directive shall not affect the Member States' right, due regard being had to Community law, to carry out checks on vehicles not covered by this Directive.

Article 2

For the purpose of this Directive:

- (a) "commercial vehicle" shall mean those motor vehicles and trailers as defined in categories 1, 2 and 3 of Annex I to Directive 96/96/EC.
- (b) "roadside inspection" shall mean an unscheduled, and therefore unexpected inspection of a commercial vehicle circulating on the territory of a Member State carried out by the authorities at the roadside or wherever the authorities see fit.

- (c) "roadworthiness test" is a test of the vehicle's roadworthiness as provided by Annex I to Directive 96/96/EC.

Article 3

1. The first stage of the roadside inspection shall be the visual assessment by a trained vehicle examiner of the maintenance condition of the commercial vehicle as it passes on the road.
2. Where, in the first stage, there is suspicion that the commercial vehicle is inadequately maintained then the second stage shall be a cursory inspection of the stationary vehicle which includes a check of its roadworthiness documentation, and in particular of proof that the commercial vehicle has undergone its statutory roadworthiness test in accordance with Article 2 of Directive 96/96/EC, or proof under Article 3(1) of Directive 96/96/EC that the commercial vehicle has undergone another recent roadside inspection.
3. Where documentation does not provide adequate assurance that the vehicle is well maintained or if the examiner still suspects that the commercial vehicle is unroadworthy, then the inspection proceeds to a third stage, in accordance with Annex II to this Directive.

Article 4

1. Member States shall organize appropriate and frequent roadside inspections covering, each year, a large and representative cross-section of commercial vehicles of all categories falling within the scope of this Directive.
2. Roadside checks shall cover a sufficiently representative part of the road network for the checks to be effective.
3. Roadside inspections shall be carried out without discrimination as to the nationality of the driver or the country of the registration of the commercial vehicle.
4. Member States shall communicate to the Commission every two years the number of commercial vehicles checked, categorized by type and country of registration, including data on the reasons for failure.

Article 5

1. In order to carry out the roadside inspections provided for in this Directive, the Member States shall use the checklist in Annex I. A copy of this checklist drawn up by the authority which has carried out the inspection or a certificate showing the result of the regular roadworthiness inspection as required by Directive 96/96/EC shall be given to the driver of the commercial vehicle and presented on request in order to simplify or avoid subsequent roadside inspections within a short and unreasonable time period thereafter.

2. If the vehicle examiner considers that the deficiency in the maintenance of the commercial vehicle justifies further examination, the commercial vehicle may be subjected to a roadworthiness test at an approved testing centre in accordance with Article 2 of Directive 96/96/EC.

If the consequence of the roadside inspection is that the commercial vehicle does not comply with Annex II or fails any subsequent roadworthiness test at an approved testing centre in accordance with Article 2 of Directive 96/96/EC and is therefore considered to present a serious risk to its occupants or other road users, then the commercial vehicle may be banned immediately from use on the public roads.

Article 6

1. Member States shall assist one another in the application of this Directive.
2. Serious or repeated deficiencies of vehicles of non-residents shall be reported to the competent authorities in the Member State in which the commercial vehicle is registered or in which the undertaking is established.

The competent authorities of the Member State which have recorded serious or repeated deficiencies of vehicles of non-residents may ask the competent authorities of the Member State in which the commercial vehicle is registered or in which the undertaking is established for appropriate measures to be taken with regard to the offender or offenders.

The latter competent authorities shall notify the competent authorities of the Member State which recorded the commercial vehicle's deficiencies, of any measures taken with regard to the offender or offenders.

Article 7

The Commission shall adopt any amendments which are needed for adapting the technical standards defined in Annex II to technical progress in accordance with the procedure laid down in Article 8.

Article 8

The Commission shall be assisted by the Committee on the Adaptation to Technical Progress of the Directive on roadworthiness tests for motor vehicles and their trailers, hereinafter referred to as "the Committee".

The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft, within a time-limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which its opinion has been taken into account.

Article 9

Member States shall determine the penalties applicable to infringements of this Directive and shall take all necessary measures to ensure that they are enforced. The penalties thus provided for shall be effective, proportionate and dissuasive. The Member States shall notify the Commission of those measures no later than the date specified in the first subparagraph of Article 10(1) and shall notify it of any amendments to them without delay.

Article 10

1. Member States shall adopt and publish, by 31 December 1998, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith inform the Commission thereof.

When Member States adopt these provisions, these shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.

Member States shall apply these provisions from 1 July 1999.

2. Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field governed by this Directive.

Article 11

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Communities*.

Article 12

This Directive is addressed to the Member States.

Done at Brussels,

For the Council
The President

CHECKLIST

1. Place of check
2. Date.....
3. Time
4. Vehicle nationality mark and registration number
5. Trailer/semi-trailer nationality mark and registration number.....
6. Class of vehicle
 - Lorry (more than 12 tonnes)¹
 - Road train²
 - Articulated vehicle with platform³
 - Coach⁴
 - mini bus⁵
 - Light goods vehicle (3.5- 12 tonnes)⁶
7. Undertaking carrying out transport/address
8. Nationality
9. Driver.....
10. Consignor, address, place of loading
11. Consignee, address, place of unloading
12. Gross mass of unit.....

Vehicle specifications in accordance with Directive 70/156/EEC, Annex IIA:

- 1 Motor vehicles with at least four wheels and used for the carriage of goods and having a maximum mass exceeding 12 tonnes (category N3).
- 2 Combination of Motor vehicles used for the carriage of goods and having a maximum mass exceeding 3.5 tonnes (categories N2, N3) with trailers (categories O).
- 3 Towing vehicle designed to be coupled to a semi-trailer.
- 4 Motor vehicle with at least four wheels used for the carriage of passengers, comprising more than eight seats in addition to the driver's seat (categories M2, M3).
- 5 Motor vehicles with at least four wheels used for the carriage of passengers, comprising (more than five but) no more than eight seats in addition to the driver's seat (category M1).
- 6 Motor vehicles with at least four wheels and used for the carriage of goods and having a maximum mass exceeding 3.5 tonnes but not exceeding 12 tonnes (category N2).

13. Reason for failure:

- braking system and components
- steering linkages
- lamps, lighting and signalling devices
- wheels/hubs /tyres
- exhaust system
- smoke opacity (diesel)
- gaseous emissions (petrol)

14. Miscellaneous/remarks

15. Authority/officer having carried out the inspection

16. Result of inspection:

- pass
- passed with minor defects
- serious defects
- immediate prohibition

Signature of testing inspector/Authorization

Technical standards of the roadside check

Commercial vehicles as defined in Article 2 shall be maintained in such a condition that can be deemed as roadworthy by the inspection authorities.

The items that shall be inspected will include those that are considered to be important for the safe and clean operation of the vehicle. As well as simple functional checks (lighting, signalling, tyre condition, etc.), specific tests and/or inspections shall be carried out on the vehicle's brakes and the motor vehicle's emissions in the following manner:

1. Brakes

It is required that every part of the braking system and its means of operation shall be maintained in good and efficient working order and be properly adjusted.

The vehicle's brakes shall be capable of performing the following three braking functions:

- (a) For motor vehicles and their trailers and semi-trailers, a service brake capable of slowing down the vehicle and of stopping it safely, rapidly and efficiently, whatever its conditions of loading and whatever the upward or downward gradient of the road on which it is moving;
- (b) For motor vehicles and their trailers and semi-trailers a parking brake capable of holding the vehicle stationary, whatever its condition of loading, on a noticeable upward or downward gradient, the operative surfaces of the brake being held in the braking position by a device whose action is purely mechanical;
- (c) For motor vehicles, a secondary (emergency) brake capable of slowing down and stopping the vehicle, whatever its condition of loading, within a reasonable distance, even in the event of failure of the service brake.

Where the maintenance condition of the vehicle is in doubt then the inspection authorities may test the vehicle's braking performance in accordance with some or all of the provisions of Directive 96/96/EC, Annex II, item 1.

2. Exhaust emissions

2.1 Exhaust emission

2.1.1 Motor vehicles equipped with positive-ignition (petrol) engines.

(a) *Where the exhaust emissions are not controlled by an advanced emission control system such as a three-way catalytic converter which is lambda-probe controlled:*

1. Visual inspection of the exhaust system in order to check that there is no leakage.
2. If appropriate, visual inspection of the emission control system in order to check that the required equipment has been fitted.

After a reasonable period of engine conditioning (taking account of the vehicle manufacturer's recommendations) the carbon monoxide (CO) content of the exhaust gases is measured when the engine is idling (no load).

The maximum permissible CO content in the exhaust gases is that stated by the vehicles manufacturer. Where this information is not available or where Member States' competent authorities decide not to use it as a reference value, the CO content must not exceed the following:

- for vehicles registered or put into service for the first time between the date from which Member States required the vehicles to comply with Directive 70/220/EEC⁷ and 1 October 1986 : CO - 4,5 % vol;
- for vehicles registered or put into service for the first time after 1 October 1986 : CO - 3.5 % vol.

(b) *Where the exhaust emissions are controlled by an advanced emission control system such as a three-way catalytic converter which is lambda-probe controlled:*

1. Visual inspection of the exhaust system in order to check that there are no leakages and that all parts are complete.
2. Visual inspection of the emission control system in order to check that the required equipment has been fitted.
3. Determination of the efficiency of the vehicle's emission control system by measuring the lambda value and the CO content of the exhaust gases in accordance with section 4 or with the procedures proposed by the manufacturers and approved at the time of type-approval. For each of the tests, the engine is conditioned in accordance with the vehicle manufacturer's recommendations.

⁷ Council Directive 70/220/EEC of 20 March 1970 on the approximation of the laws of the Member States relating to measures to be taken against air pollution by emissions from motor vehicles (OJ L 76, 9.3.1970, p.1) and corrigendum (OJ L 81, 11.4.1970, p. 15).

4. Exhaust pipe emissions - limit values

- Measurement at engine idling speed:

The maximum permissible CO content in the exhaust gases is that stated by the vehicle manufacturer. Where this information is not available, the maximum CO content must not exceed 0.5% vol.

- Measurement at high idle speed, engine speed to be at least 2 000 min⁻¹:

CO content: maximum 0.3 % vol.

Lambda: $\lambda = 0.03$ in accordance with the manufacturer's specifications.

2.1.2 Motor vehicles equipped with compression ignition (diesel) engines

Measurement of exhaust gas opacity with free acceleration (no load from idling up to cut-off speed). The level of concentration must not exceed the level recorded on the plate pursuant to Directive 72/306/EEC⁸. Where this information is not available or where Member States' competent authorities decide not to use it as a reference, the limit values of the coefficient of absorption are as follows:

Maximum coefficient of absorption for:

- naturally aspirated diesel engines = 2.5 m⁻¹,
- turbo-charged diesel engines = 3.0 m⁻¹

or equivalent values where use is made of equipment of a type different from that used for EC type-approval.

Vehicles registered or put into service for the first time before 1 January 1980 are exempted from these requirements.

2.1.3 Test equipment

Vehicle emissions are tested using equipment designed to establish accurately whether the limit values prescribed or indicated by the manufacturer have been complied with.

2.2 Where appropriate, a check on the correct functioning of the On Board Diagnostic (OBD) emission monitoring system.

⁸ Council Directive 72/306/EEC of 2 August 1972 on the approximation of the laws of the Member States relating to the measures to be taken against the emission of pollutants from diesel engines for use in vehicles (OJ L 190, 20.8.1972, p. 1).

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