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CEMA – FEM proposal for changes to RFVSR-RVCR and RAR to solve the issue of telehandlers

Due to the exclusion of tractors from the Machinery Directive, which was once again confirmed by an amendment of the Machinery Directive in article 77 of the new framework Regulation for agricultural vehicles 167/2013, the Commission raised the concern of telehandlers being approved as tractors *and* falling under the Machinery Directive. The Commission is prepared to come to a solution that will continue to allow telehandlers to be approved under the Regulation for agricultural vehicles 167/2013, while the telescopic boom would need to be in conformity with the Machinery Directive.

The Commission proposed two options:

- all requirements to be included inside the delegated acts or
- keep the split between tractor requirements and Machinery Directive requirements.

In both cases, the Commission felt there was a need for a definition of telehandlers to be included in the delegated acts.

Industry evaluated the two options, together with the proposal for a definition of telehandler as received by the Commission after a common meeting, and has major objections against the inclusion of such a definition. According to that definition, the main function of a telehandler would not be to pull, push, and carry but to lift loads. Therefore, it could not fall under the 'tractor' definition. This way of thinking is not aligned with industry. The definition of tractor is deliberately wide, as it concerns a multifunctional tool. A telehandler is typically a multifunctional tool with main functions (i.e. those of a tractor) as well as a lifting function. The requirements in the delegated acts are drafted in such a way that a tractor can fulfil these push, pull, carry functions for agricultural and forestry work. If a vehicle, intended for agricultural use can fulfil the requirements related to safety and health of the operator, bystander and the protection of the environment as described in the delegated acts, there is no technical objection for a homologation as a tractor.

If on such a vehicle a machine is mounted, which adds a functionality or makes it fit for special purpose work, the resulting additional or increased risks need to be addressed by the manufacturer in compliance with the Machinery Directive. Then the tractor functions can still be performed safely and can be checked by testing stations and type approval authorities. For instance, a transport vehicle on which a shredder is mounted, is not intended for transport anymore but for going from one site to the other to shred. However, it can still transport safely. A tractor with de-mountable sprayer (not on the three point lift or towed but bolted to the chassis) will have as main function spraying, but it can still



push, pull, and carry safely. A telehandler can lift hay balls but it can also push pull and carry safely.

As it is very demanding and requires serious investments in R&D to alter the vehicle to comply with the tractor requirements, industry does not share the concern of the Commission that other vehicles might potentially be homologated as tractors. In fact, the reasoning of industry on the use of the definition reflects the general practice among testing stations and type approval authorities for the past decades. Following the Commission's line of thinking would also imply that many tractors with other mounted machinery would be permanently excluded from the framework Regulation, as only those defined in it would be included.

It is therefore our strong belief that the telehandler can receive a type approval certificate as a tractor, provided it can fulfil all the tractor requirements. The open definition of tractors is not a reason for concern, as long as a vehicle can prove the fulfilment of all requirements. The inclusion of a definition for telehandlers would have negative implications for other tractors with mounted machinery. Furthermore, it would not be in line with the policy on 'European industrial renaissance' and would threaten innovation in this sector.

The question can be raised whether it is legally appropriate to include a definition for telehandler in the delegated acts?

The rules of the Commission's legal service provide that you cannot insert a definition if the term is not used in the text in the primary legislation. Therefore, the Commission would have to mention telehandlers somewhere in the articles or annexes. Telehandlers are not mentioned in the scope of 167/2013. Mentioning telehandlers indirectly implies a change of scope. Besides, with a definition, the Commission would be obliged to add some requirements to clarify the application of the Regulation to this new type of equipment. Basically, a new category would be necessary alongside the tractor categories. This can only be done in co-decision, which means from 2016 onwards.

The insertion of a definition and the unavoidable insertion of further categorisation, cannot be considered as a fast and appropriate solution and most probably will take a lot of time.

A second problem is the interpretation of 'machinery mounted on a tractor'. It was strongly contested by the industry that only interchangeable equipment were to be seen as mounted machinery. Also on transport vehicles mounted machinery are often fixed and their machinery are also covered by the Machinery Directive. The Commission agreed that no amendments to the Machinery Directive would be needed, which implies that the mounted machinery includes both interchangeable and permanently fixed machinery.



Industry proposal:

If it is concluded that mounted machinery can also be permanently fixed, then permanently fixed machinery can be placed on a tractor according to article 1 (e) of the Machinery Directive.

Also, it must be clear that any agricultural vehicle, complying with all requirements under the framework regulation for agricultural vehicles, can receive EU type approval.

For that purpose, industry proposes the following modifications to RVFSR recital 2 and Article 39, a new Article 34 in RVCR and a requirement in RAR:

RFVSR

Recital (2)

2. The term 'agricultural and forestry vehicles' covers a wide range of different vehicle types with one or more axles and two, four or more wheels or track-laying vehicles, e.g. wheeled tractors, track-laying tractors, trailers and towed equipment, used for a wide variety of agricultural and forestry purposes, including special purpose works.

Agricultural and forestry vehicles corresponding to the tractor definition, as laid out in Article 3 of Regulation (EU) No 167/2013, on which a machinery is mounted for special purpose works, whether interchangeable or permanently fixed, may be type approved according to Regulation (EU) No 167/2013.

The aforesaid mounted machinery, including parts and/or components for installation or assembly with such vehicles, shall be subject to Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery, as laid out in Article 1 paragraph 2 (e) of latter Directive

RVFSR

Article 34

Type-approval of vehicles, systems, components and separate technical units

In accordance with Article 17 of Regulation (EU) No 167/2013 and with effect from 1 January 2018 as laid down in its Article 73(3), national authorities shall, in the case of new vehicles that do not comply with Regulation (EU) No 167/2013 and the provisions of this Regulation, consider certificates of conformity to be no longer valid for the purposes of Article 38 (1) of Regulation (EU) No 167/2013 and shall, on grounds relating to functional safety, prohibit the making available on the market, registration, or entry into service of such vehicles.

For tractors on which machinery is mounted, including permanently fixed, Member States may not refuse to grant EU type-approval of the vehicle, on grounds relating to functional safety if the vehicle complies with the requirements set out in this Regulation.



RVCR

New Article 34

Type-approval of vehicles, systems, components and separate technical units

In accordance with Article 18 of Regulation (EU) No 167/2013 and with effect from 1 January 2018 as laid down in its Article 73(3), national authorities shall, in the case of new vehicles that do not comply with Regulation (EU) No 167/2013 and the provisions of this Regulation, consider certificates of conformity to be no longer valid for the purposes of Article 38 (1) of Regulation (EU) No 167/2013 and shall, on grounds relating to construction requirements, prohibit the making available on the market, registration, or entry into service of such vehicles.

For tractors on which machinery is mounted, including permanently fixed, Member States may not refuse to grant EU type-approval of the vehicle, on grounds relating to construction requirements if the vehicle complies with the requirements set out in this Regulation.

RAR

PART II) INFORMATION DOCUMENT

insert in the appropriate place to provide following: 'For tractors equipped with a mounted machinery, permanently fixed, a copy of the Declaration of Conformity of the mounted machinery to proof conformity with Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery'

Justification:

The recital provides an interpretation that can be referred to by legislators, testing stations and manufacturers and that can support the current practice. It avoids that any new definitions like 'telehandler' needs to be mentioned. It ensures that the clear split between Machinery Directive and type approval legislation remains valid so that the overall principle of 'one requirement for one risk' is respected. The wording of 'special purpose works' could refer to 'special purpose' vehicles T4 and to R&S vehicles as indicated in 167/2013 but there is no reason why the wording is not valid for other T-C vehicles where the special purpose work comes from mounted machinery.

The articles in RVCR and RVFSR give legal certainty that these vehicles can receive an EU type approval. The inclusion of a proof of conformity to the Machinery Directive of the mounted equipment in the administrative requirements in case a machinery is permanently fixed on a tractor will allow authorities to check the conformity of the vehicle, knowing that the machinery complies with Directive 2006/42/E
