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Proposal for a

COUNCIL DECISION

on the conclusion of Revision 3 of the Agreement of the United Nations Economic Commission for Europe concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted and/or used on wheeled vehicles and the conditions for the reciprocal recognition of approvals granted on the basis of these prescriptions ('Revised 1958 Agreement')

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DECISION

At international level, the World Forum for Harmonisation of Vehicle Regulations (WP.29) of the United Nations Economic Commission for Europe (UNECE) develops harmonised requirements, intended to remove technical barriers to the trade in motor vehicles between the Contracting Parties to the Revised 1958 Agreement and to ensure that such vehicles offer a high level of safety and environmental protection. By Council Decision 97/836/EC, the Union acceded to the Revised 1958 Agreement.

WP.29 agreed, at its 150th session in March 2010, to consider actions on the future direction for the harmonisation of vehicle regulations under the Revised 1958 Agreement, with the aim of fostering the participation of more countries and regional economic integration organisations in the activities of the World Forum and increasing the number of Contracting Parties to the Revised 1958 Agreement. This review should also aim at enhancing the functioning and reliability of the Revised 1958 Agreement, and at ensuring that it remains the key international framework for the harmonisation of technical regulations in the automotive sector.

The Commission obtained in July 2013 an authorisation from the Council to negotiate, on behalf of the Union, proposals for the revision of the Agreement. For that purpose it has steered the task force of the informal working group established by WP.29 to develop proposals for revising the Agreement. The result of that work was presented to WP.29 in March 2014 and WP.29 decided to "freeze" the draft proposals to enable Contracting Parties to start their national procedures for assessing these proposals. In November 2014 a number of Contracting Parties jointly submitted a proposal to WP.29 to increase the majority voting threshold, for establishing new UN Regulations and amendments to existing UN Regulations, from two-thirds to four-fifths.

In Commission Staff Working document SWD (2014) 178 final of 28 May 2014, entitled 'Progress report on the 2013 activities of the World Forum for Harmonisation of Vehicle Regulations' it is anticipated that if the matter of raising the majority voting threshold finds a positive solution, the chances to attract as new contracting parties such important EU partners as India, China, the ASEAN countries and even Brazil would be much higher. Also the CARS 2020 Action Plan recognises that the acceptance of internationally harmonised vehicle regulations established under the 1958 Agreement by the EU's trading partners is the best way to remove non-tariff barriers to trade, and that therefore the attractiveness of the 1958 Agreement needs to be enhanced. Having assessed the proposals for revising the Agreement, including the request to increase of the majority voting threshold to four-fifths, in the light of the above, it can be concluded that they are meeting the objectives of making the Agreement more attractive for third countries and at the same time increasing its effectiveness and reliability.

Therefore, the European Union, as Contracting Party to the Agreement, should take the necessary steps towards the adoption of the proposed amendments to the 1958 Agreement in accordance with the procedures set out in Article 5(1) and Annex III, point 3 of Council Decision 97/836/EC. These procedures provide that the Council shall, on a proposal by the Commission, adopt a decision to conclude the revision of the Agreement and to submit, on behalf of the Union, the proposed amendments to the Agreement to the Contracting Parties.

Article 13(1) of the Agreement provides that this shall be done by means of a notification of the text of the proposed amendment to the Secretary-General of the United Nations, who shall transmit it to all Contracting Parties.

Article 13(2) and (3) of the Agreement specify that the proposed amendments shall be deemed to be accepted if no Contracting Party expresses an objection within a period of six months following the date of transmission of the proposed amendment by the Secretary-General. Considering the need for the consent of all Contracting Parties to the Agreement, WP.29 decided to organise an informal vote to verify whether all Contracting Parties to the current Agreement can accept to the proposed amendment, prior to launching the procedure for amending the Agreement under Article 13. Therefore, the Commission should be authorised to vote, on behalf of the EU, in favour of the proposed amendments.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

Regular consultations on the draft proposals for reviewing the Revised 1958 Agreement have taken place with all stakeholders in the automotive sector, by means of an exchange of views in the context of the Motor Vehicles Working Group. During the negotiations, consultation with the Member States has taken place in the context of the Technical Committee Motor Vehicles (TCMV) as provided for in the negotiation directives the Council issued in July 2013. Representatives of Member States and industry associations also participated in the informal working group set up by WP.29 and in particular the task force for preparing the draft proposals for revision 3 of the Agreement, which was chaired by the Commission services.

This consultation has enabled to achieve a consensus on the draft proposals for Revision 3 of the Agreement as developed by the informal group and submitted to WP.29, as well as to obtain a positive response to the proposal to increase the majority voting threshold for the establishment of UN Regulations and amendments thereto.

No Impact Assessment was conducted for this Decision, but a cost-benefit study has been carried out by the Commission services with a view to verifying that the envisaged changes to the Agreement will achieve the expected benefits in terms of making the Agreement more attractive and as a result enhance the global competitiveness of the EU automotive industry through facilitating market access in countries that may join the Agreement after its revision.

3. LEGAL ELEMENTS OF THE DECISION

The legal basis for this Decision is Article 218(6)(a) of the Treaty on the Functioning of the European Union, as specified in Article 5(1) of Council Decision 97/836/EC.

The envisaged changes to the Agreement would address the procedures for developing, amending and adopting technical regulations for motor vehicles, and their implementation by Contracting Parties, as well as the conditions for granting type approvals and their mutual recognition, and as such will continue to serve as a basis for granting approvals under EU type-approval legislation.

4. BUDGETARY IMPLICATION

The proposal has no implication for the Union budget.

5. OPTIONAL ELEMENTS

The proposed act does not concern an EEA matter and should therefore not extend to the European Economic Area.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207 thereof, in conjunction with Article 218(6)(a) thereof,

Having regard to Council Decision 97/836/EC of 27 November 1997 on the accession by the European Community to the Agreement of the United Nations Economic Commission for Europe concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted and/or used on wheeled vehicles and the conditions for the reciprocal recognition of approvals granted on the basis of these prescriptions¹, and in particular Article 5(1) and Annex III, point 3 thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

- (1) The Agreement of the United Nations Economic Commission for Europe concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted and/or used on wheeled vehicles and the conditions for the reciprocal recognition of approvals granted on the basis of these prescriptions (hereinafter referred to as 'the Agreement') entered into force on 16 October 1995.
- (2) Article 13 of the Agreement provides for amendments regarding the Agreement itself and of its Appendices to be adopted by means of a notification by a Contracting Party of the text of the proposed amendments to the Secretary-General of the United Nations, who shall transmit it to all Contracting Parties. If no Contracting Party expresses an objection within a period of six months following the date of transmission of the proposed amendments by the Secretary-General, the amendments shall enter into force for all Contracting Parties three months after the expiry of that six months' period.

¹ OJ L 346, 17.12.1997, p. 78.

- (3) WP.29 agreed, at its 150th session in March 2010, to establish an informal group with a view to assisting WP.29 in considering actions on the future direction for the harmonisation of vehicle regulations under the Revised 1958 Agreement. This future direction should aim at fostering the participation of more countries and regional economic integration organisations in the activities of the World Forum and to increase the number of Contracting Parties to the Revised 1958 Agreement, by improving its functioning and reliability, and thus ensuring that it remains the key international framework for the harmonisation of technical regulations in the automotive sector.
- (4) On 15 July 2013 the Council authorised the Commission to open negotiations within WP.29 for amending the Agreement. The Commission has negotiated, on behalf of the Union, proposals for amending the Agreement within the informal group established by WP.29.
- (5) WP.29 at its 162th session in March 2014 took note of the proposals for Revision 3 of the 1958 Agreement prepared by the informal group and invited Contracting Parties to the Agreement to start their national procedures of consideration of the proposals for amending the Agreement.
- (6) At its 164th session in November 2014 WP.29 took note of a proposal submitted by a number of Contracting Parties to the Agreement to increase the voting majority threshold, for the establishment of new UN Regulations and amendments to existing UN Regulations, from the two-thirds to a four-fifths majority. The representative of the EU announced the intention to establish a coordinated position of the EU Member States on this proposal.
- (7) The proposals for Revision 3 of the Agreement and for increasing the voting majority threshold from two-thirds to four-fifths meet the negotiation objectives specified in the Council Decision authorising the Commission to open negotiations within WP.29 for Revision 3 of the Agreement.
- (8) Therefore, Articles 1 to 15 and Appendices 1 and 2 of the Agreement should be amended accordingly.
- (9) Those amendments to the Agreement should be approved on behalf of the European Union.
- (10) An informal vote will be organised by WP.29 to verify whether the consent of all Contracting Parties can be obtained on those amendments to the Agreement before launching the procedure specified in Article 13 for amending the Agreement. The Union should vote in favour of those modifications.
- (11) After the informal vote in WP.29 has confirmed that consent of all Contracting Parties on the proposed amendments to the Agreement has been obtained, the President of the Council should nominate the representative of the European Union empowered to notify, as provided for in Annex III, point 3 of Council Decision 97/836/EC, the text of the proposed amendments to the Secretary-General of the United Nations, in accordance with the procedure set out in Article 13.1 of the Agreement.

HAS ADOPTED THIS DECISION:

Article 1

Revision 3 of the Agreement of the United Nations Economic Commission for Europe concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted and/or used on wheeled vehicles and the conditions for the reciprocal recognition of approvals granted on the basis of these prescriptions is hereby approved on behalf of the Union.

The text of Revision 3 of the Agreement is attached to this Decision.

Article 2

The President of the Council shall designate the person empowered to proceed, on behalf of the European Union, with the notification provided for in Article 13.1 of the Agreement, in order to initiate the procedure for the conclusion of Revision 3 of the Agreement and to express the consent of the European Union to be bound by Revision 3 of the Agreement.

Article 3

This Decision shall enter into force on the date of publication in the *Official Journal of the European Union*².

Done at Brussels,

For the Council
The President

² The date of entry into force of the Agreement will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.