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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2021) 657 final
Subject:	Proposal for a COUNCIL DECISION on the position to be taken on behalf of the European Union in the World Forum for Harmonisation of Vehicle Regulations of the United Nations Economic Commission for Europe as regards the proposals for modifications to UN Regulations Nos 0, 14, 16, 22, 24, 37, 45, 48, 49, 55, 58, 67, 79, 83, 86, 90, 94, 95, 100, 101, 110, 116, 118, 125, 128, 129, 133, 134, 135, 137, 145, 149, 150, 151, 152, 153, 157, 158 and 159, as regards the proposals for amendments to Consolidated Resolutions R.E.3 and R.E.5, as regards the proposals for amendments to Mutual Resolutions M.R.1 and M.R.2, and as regards the proposals for authorisations to amend UN GTR on pedestrian safety, and to develop UN GTRs on Global Real Driving Emissions and on brake particulate emissions

Delegations will find attached document COM(2021) 657 final.

Encl.: COM(2021) 657 final

EUROPEAN
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Brussels, 22.10.2021
COM(2021) 657 final

2021/0344 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union in the World Forum for Harmonisation of Vehicle Regulations of the United Nations Economic Commission for Europe as regards the proposals for modifications to UN Regulations Nos 0, 14, 16, 22, 24, 37, 45, 48, 49, 55, 58, 67, 79, 83, 86, 90, 94, 95, 100, 101, 110, 116, 118, 125, 128, 129, 133, 134, 135, 137, 145, 149, 150, 151, 152, 153, 157, 158 and 159, as regards the proposals for amendments to Consolidated Resolutions R.E.3 and R.E.5, as regards the proposals for amendments to Mutual Resolutions M.R.1 and M.R.2, and as regards the proposals for authorisations to amend UN GTR on pedestrian safety, and to develop UN GTRs on Global Real Driving Emissions and on brake particulate emissions

EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

This proposal concerns a decision establishing the position to be taken on the Union's behalf in the World Forum for Harmonisation of Vehicle Regulations of the United Nations Economic Commission for Europe (WP.29) as regards the adoption of modifications to existing UN Regulations and existing UN Global Technical Regulations.

2. CONTEXT OF THE PROPOSAL

2.1. The 1958 Agreement and the 1998 Agreement

The Agreement of the United Nations Economic Commission for Europe ("UNECE") concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted to and/or be used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions ("Revised 1958 Agreement") and the Agreement concerning the establishing of Global Technical Regulations for wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles ("Parallel Agreement") aim to develop harmonised requirements intended to remove technical barriers to trade in motor vehicles between the UNECE Contracting Parties and to ensure that such vehicles offer a high level of safety and environmental protection. The Agreements entered into force for the EU on 24 March 1998 and 15 February 2000 respectively. They are both administered by the UNECE World Forum for Harmonisation of Vehicle Regulations (Working Party 29 or WP.29).

2.2. The World Forum for Harmonisation of Vehicle Regulations of the United Nations Economic Commission for Europe (UNECE) – Working Party 29 or WP. 29

WP.29 offers a unique framework for globally harmonized regulations on vehicles. WP.29 is a permanent working party in the institutional framework of the United Nations with a specific mandate and rules of procedure. It works as a global forum allowing open discussions on motor vehicle regulations and where the implementation of the Revised 1958 Agreement and the Parallel Agreement is being discussed. Any member country of the United Nations and any regional economic integration organization, set up by country members of the United Nations, may fully participate in the activities of WP.29 and may become a contracting party to the Agreements on vehicles administered by WP.29. The European Union is a party to these Agreements[1].

The meetings of UNECE WP.29 are held three times a year, i.e. in March, June and November. In each meeting session new UN Regulations, new UN Resolutions, new UN Global Technical Regulations (UN GTRs), modifications to existing UN Regulations and

[1] Council Decision 97/836/EC of 27 November 1997 with a view to 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 to and/or be used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions ('Revised 1958 Agreement') (OJ L 346, 17.12.1997, p. 78).
Council Decision 2000/125/EC of 31 January 2000 concerning the conclusion of the Agreement concerning the establishing of global technical regulations for wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles ('Parallel Agreement') (OJ L 35, 10.2.2000, p. 12).

Resolutions under the Revised 1958 Agreement and modifications to existing UN GTRs and Resolutions under the Parallel Agreement may be adopted in order to allow for technical progress. Prior to each WP.29 meeting these modifications are first discussed at technical level in dedicated subsidiary bodies of WP.29.

Subsequently, a vote takes place at WP.29 level (i.e. by a qualified majority of the Contracting Parties present and voting for the proposals under the Revised 1958 Agreement and by a consensus vote of the Contracting Parties present and voting for the proposals under the Parallel Agreement).

The position to be taken on behalf of the Union on the new UN Regulations and UN GTRs, their amendments, supplements and corrigenda, and Resolutions is established ahead of each WP.29 by a Council Decision under Article 218 (9) TFEU.

2.3. The envisaged act of WP.29

Between 23 and 25 November 2021, during its 185th session, WP.29 may adopt the proposals for modifications to UN Regulations Nos 0, 14, 16, 22, 24, 37, 45, 48, 49, 55, 58, 67, 79, 83, 86, 90, 94, 95, 100, 101, 110, 116, 118, 125, 128, 129, 133, 134, 135, 137, 145, 149, 150, 151, 152, 153, 157, 158 and 159, the proposals for amendments to Consolidated Resolutions R.E.3 and R.E.5, the proposals for amendments to Mutual Resolutions M.R.1 and M.R.2, and the proposals for authorisations to amend UN GTR on pedestrian safety, and to develop UN GTRs on Global Real Driving Emissions and on brake particulate emissions.

3. POSITION TO BE TAKEN ON THE UNION'S BEHALF

The WP.29 system strengthens international harmonization of vehicle standards. The 1958 Agreement plays a key role in this objective since EU manufacturers can operate to a common set of type approval Regulations in the knowledge that the product will be recognized by the Contracting Parties as being in conformity with its national legislation. This scheme, for instance, has allowed for Regulation (EC) No 661/2009 on the general safety of motor vehicles to repeal more than 50 EU Directives and replace them with the corresponding Regulations developed under the 1958 Agreement.

A similar approach is followed by Regulation (EU) 2018/858 of the European Parliament and of the Council[2] which lays down administrative provisions and technical requirements for the type-approval and placing on the market of all new vehicles, systems, components and separate technical units. This Regulation incorporates regulations adopted under the Revised 1958 Agreement ('UN Regulations') in the EU type-approval system, either as requirements for type-approval or as alternatives to Union legislation.

Once the proposals for modifications to or new UN Regulations are adopted by WP.29, and once these acts are notified to the Contracting Parties by the Executive Secretary of UNECE, then after six months, in the absence of objections by the Contracting Parties constituting a blocking minority, the acts may finally enter into force and may be transposed in the applicable national rules of each Contracting Party. In the EU, the transposition is completed following the publication of these acts in the Official Journal of the EU.

[2] Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, amending Regulations (EC) No 715/2007 and (EC) No 595/2009 and repealing Directive 2007/46/EC (OJ L 151, 14.6.2018, p. 1).

It is, hence, necessary to define the Union's position on the following acts:

– the proposals for modifications to UN Regulations Nos 0, 14, 16, 22, 24, 37, 45, 48, 49, 55, 58, 67, 79, 83, 86, 90, 94, 95, 100, 101, 110, 116, 118, 125, 128, 129, 133, 134, 135, 137, 145, 149, 150, 151, 152, 153, 157, 158 and 159, which relate to the update of the provisions on international whole vehicle type approval, safety-belt anchorages, safety-belts, protective helmets, diesel smoke, filament light sources, headlamp cleaners, installation of lighting and light-signalling devices, emissions of heavy duty vehicles, mechanical couplings, rear underrun protective devices, LPG vehicles, steering equipment, emissions of M1 and N1 vehicles, installation of lighting and light-signalling devices for agricultural vehicles, replacement brake parts, frontal and lateral collision, electric power-train vehicles, CO2 emission/fuel consumption, CNG and LNG vehicles, anti-theft and alarm systems, burning behaviour of materials, forward field of vision of drivers, headlamps with gas-discharge light sources, enhanced child restraint systems, hydrogen and fuel cell vehicles, recyclability of motor vehicles, pole side impact, frontal impact with focus on restraint systems, ISOFIX anchorage systems, road illumination devices, retro-reflective devices, AEBS for M1 and N1, fuel system integrity and safety of electric power train in the event of a rear-end collision, automated lane keeping system, reversing motion and moving off information systems;

submitted for vote in the November 2021 WP.29 meeting that will take place between 23 and 25 November 2021. In addition, it is necessary to define the Union's position on:

– the proposal updating table 1 in the framework document on automated/autonomous vehicles;

– the proposals for amendments to Consolidated Resolutions R.E.3 and R.E.5, which relate to the update of the provisions on construction of vehicles and specification of light source categories;

– the proposals for amendments to Mutual Resolutions M.R.1 and M.R.2, which relate to the update of the provisions on description and performance of test tools and devices necessary for the assessment of compliance of wheeled vehicles, equipment and parts, and vehicle propulsion system definitions;

– the proposals for authorisations to amend UN GTR on pedestrian safety, and to develop UN GTRs on Global Real Driving Emissions and on brake particulate emissions; and

– the request to list in the compendium of candidates for UN Global Technical Regulations four proposals of other Contracting Parties.

The Union should support the above acts because they are in line with the Union’s internal market policy as regards the automotive industry and are consistent with Union transport, climate and energy policies.

All these acts have a very positive impact on automotive EU competitiveness and international trade. The vote in favour of these acts will foster technological progress, offer advantages of economies of scale, prevent fragmentation of the internal market and ensure the automotive standards are applied equally across the Union.

External expertise is not relevant in the case of this proposal. It will however be reviewed by the Technical Committee on Motor Vehicles.

4. LEGAL BASIS

4.1. Procedural legal basis

4.1.1. Principles

Article 218(9) of the Treaty on the Functioning of the European Union (TFEU) provides for decisions establishing 'the positions to be adopted on the Union's behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement.'

The concept of 'acts having legal effects' includes acts that have legal effects by virtue of the rules of international law governing the body in question. It also includes instruments that do not have a binding effect under international law, but that are 'capable of decisively influencing the content of the legislation adopted by the EU legislature'.[3]

4.1.2. Application to the present case

WP.29 is a body where the implementation of the Revised 1958 Agreement and the Parallel Agreement is being discussed between the UNECE Contracting Parties.

The acts which WP.29 is called upon to adopt constitute acts having legal effects.

The UN Regulations within the envisaged act will be binding on the Union and together with Resolutions capable of decisively influencing the content of EU legislation in the field of vehicle type approval.

The envisaged acts do not supplement or amend the institutional framework of the Agreement.

Therefore, the procedural legal basis for the proposed decision is Article 218(9) TFEU.

4.2. Substantive legal basis

4.2.1. Principles

The substantive legal basis for a decision under Article 218(9) TFEU depends primarily on the objective and content of the envisaged act in respect of which a position is taken on the Union's behalf. If the envisaged act pursues two aims or has two components and if one of those aims or components is identifiable as the main one, whereas the other is merely incidental, the decision under Article 218(9) TFEU must be founded on a single substantive legal basis, namely that required by the main or predominant aim or component.

4.2.2. Application to the present case

The main objective and content of the envisaged act relate to the approximation of laws. Therefore, the substantive legal basis of the proposed decision is Article 114 TFEU.

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[3] Judgment of the Court of Justice of 7 October 2014, Germany v Council, C-399/12, ECLI:EU:C:2014:2258, paragraphs 61 to 64.

4.3. Conclusion

The legal basis of the proposed decision should be Article 114 TFEU, in conjunction with Article 218(9) TFEU.

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on the position to be taken on behalf of the European Union in the World Forum for Harmonisation of Vehicle Regulations of the United Nations Economic Commission for Europe as regards the proposals for modifications to UN Regulations Nos 0, 14, 16, 22, 24, 37, 45, 48, 49, 55, 58, 67, 79, 83, 86, 90, 94, 95, 100, 101, 110, 116, 118, 125, 128, 129, 133, 134, 135, 137, 145, 149, 150, 151, 152, 153, 157, 158 and 159, as regards the proposals for amendments to Consolidated Resolutions R.E.3 and R.E.5, as regards the proposals for amendments to Mutual Resolutions M.R.1 and M.R.2, and as regards the proposals for authorisations to amend UN GTR on pedestrian safety, and to develop UN GTRs on Global Real Driving Emissions and on brake particulate emissions

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) By Council Decision 97/836/EC[1], the Union acceded to the Agreement of the United Nations Economic Commission for Europe (UNECE) concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted to and/or be used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of those prescriptions ('Revised 1958 Agreement'). The Revised 1958 Agreement entered into force on 24 March 1998.

(2) By Council Decision 2000/125/EC[2], the Union acceded to the Agreement concerning the establishing of global technical regulations for wheeled vehicles, equipment and parts, which can be fitted and/or be used on wheeled vehicles ('Parallel Agreement'). The Parallel Agreement entered into force on 15 February 2000.

(3) Regulation (EU) 2018/858 of the European Parliament and of the Council[3] lays down administrative provisions and technical requirements for the type-approval and placing

[1] Council Decision 97/836/EC of 27 November 1997 with a view to 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 to and/or be used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions ('Revised 1958 Agreement') (OJ L 346, 17.12.1997, p. 78).

[2] Council Decision 2000/125/EC of 31 January 2000 concerning the conclusion of the Agreement concerning the establishing of global technical regulations for wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles ('Parallel Agreement') (OJ L 35, 10.2.2000, p. 12).

[3] Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and

on the market of all new vehicles, systems, components and separate technical units. This Regulation incorporates regulations adopted under the Revised 1958 Agreement ('UN Regulations') in the EU type-approval system, either as requirements for type-approval or as alternatives to Union legislation.

(4) Pursuant to Article 1 of the Revised 1958 Agreement and Article 6 of the Parallel Agreement, the UNECE World Forum for Harmonisation of Vehicle Regulations (UNECE WP.29) may adopt proposals for modifications to UN Regulations, UN Global Technical Regulations (UN GTRs) and UN Resolutions as well as proposals for new UN Regulations, UN GTRs and UN Resolutions concerning the approval of vehicles. Moreover, pursuant to those provisions, UNECE WP.29 may adopt proposals for authorisations to develop amendments to UN GTRs or to develop new UN GTRs and may adopt proposals for the extension of mandates for UN GTRs.

(5) UNECE WP.29, during the 185th session of the World Forum to be held between 23 and 25 November 2021, may adopt the proposals for modifications to UN Regulations Nos 0, 14, 16, 22, 24, 37, 45, 48, 49, 55, 58, 67, 79, 83, 86, 90, 94, 95, 100, 101, 110, 116, 118, 125, 128, 129, 133, 134, 135, 137, 145, 149, 150, 151, 152, 153, 157, 158 and 159.

(6) It is appropriate to establish the position to be taken on the Union's behalf in UNECE WP.29, as regards the adoption of those proposals, as the UN Regulations will be binding on the Union and, together with the UN Resolutions capable of decisively influencing the content of Union law in the field of vehicle type-approval.

(7) In the light of experience and technical developments, the requirements relating to certain elements or features covered by UN Regulations Nos 0, 14, 16, 22, 24, 37, 45, 48, 49, 55, 58, 67, 79, 83, 86, 90, 94, 95, 100, 101, 110, 116, 118, 125, 128, 129, 133, 134, 135, 137, 145, 149, 150, 151, 152, 153, 157, 158 and 159, need to be amended, corrected or supplemented.

(8) In addition, certain provisions in UN Resolutions R.E.3, R.E.5, M.R.1 and M.R.2 need to be amended.

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union’s behalf in the 185th session of the UNECE World Forum for Harmonisation of Vehicle Regulations to be held between 23 and 25 November 2021 shall be to vote in favour of the proposals listed in the Annex to this Decision.

Article 2

This Decision is addressed to the Commission.

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separate technical units intended for such vehicles, amending Regulations (EC) No 715/2007 and (EC) No 595/2009 and repealing Directive 2007/46/EC (OJ L 151, 14.6.2018, p. 1).

Done at Brussels,

For the Council
The President