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From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

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To: Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

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Subject: Proposal for a COUNCIL DECISION on the position to be taken on behalf of the European Union in the World Forum for Harmonization of Vehicle Regulations of the United Nations Economic Commission for Europe on proposals for modifications to UN regulation Nos 0, 14, 16, 17, 24, 43, 48, 53, 74, 86, 90, 94, 95, 100, 122, 129, 134, 135, 137, 145, 149, 153, 154, 157, 160, 161, and 162, on proposals for a new UN regulation on event data recorders for heavy-duty vehicles, and a new UN regulation on child restraint systems for safer transport of children in buses; and on a proposal for an amendment of UN mutual resolution No 1

Delegations will find attached document COM(2023) 644 final.

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Brussels, 23.10.2023
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2023/0372 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union in the World Forum for Harmonization of Vehicle Regulations of the United Nations Economic Commission for Europe on proposals for modifications to UN regulation Nos 0, 14, 16, 17, 24, 43, 48, 53, 74, 86, 90, 94, 95, 100, 122, 129, 134, 135, 137, 145, 149, 153, 154, 157, 160, 161, and 162, on proposals for a new UN regulation on event data recorders for heavy-duty vehicles, and a new UN regulation on child restraint systems for safer transport of children in buses; and on a proposal for an amendment of UN mutual resolution No 1

EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

This proposal is for a decision establishing the position to be taken on the EU's behalf in the World Forum for Harmonization of Vehicle Regulations of the United Nations Economic Commission for Europe (WP.29) on the adoption of modifications to current United Nations (UN) regulations and a mutual resolution, and on the adoption of two new UN regulations.

2. CONTEXT OF THE PROPOSAL

2.1. The Revised 1958 Agreement and the Parallel Agreement

Two agreements are in place to develop harmonised requirements to remove technical barriers to trade in motor vehicles between the United Nations Economic Commission for Europe (UNECE) contracting parties, and to ensure that motor vehicles offer a high level of safety and environmental protection. These are:

- the Agreement of the UNECE on 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 (the '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 (the 'Parallel Agreement').

The agreements entered into force for the EU on 24 March 1998 and 15 February 2000 respectively. Work related to these agreements is overseen by WP.29.

2.2. The World Forum for Harmonization of Vehicle Regulations of the United Nations Economic Commission for Europe

WP.29 provides a unique framework for globally harmonised regulations on vehicles. WP.29 is a permanent working party in the UN institutional framework with a specific mandate and specific rules of procedure. It works as a global forum enabling open discussions on motor vehicle regulations and on the implementation of the Revised 1958 Agreement and the Parallel Agreement. Any UN member and any regional economic integration organisation set up by UN members may fully participate in the activities of WP.29 and become a contracting party to the agreements on vehicles overseen by WP.29. The EU is a party to these agreements¹.

UNECE WP.29 meets three times a year, in March, June and November. To reflect technical progress, at each meeting, WP.29 can adopt:

new UN regulations;

new UN resolutions;

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).

new UN global technical regulations (UN GTRs);
modifications to UN regulations and resolutions under the Revised 1958 Agreement; and
modifications to UN GTRs and resolutions under the Parallel Agreement.

Before each WP.29 meeting, dedicated subsidiary bodies of WP.29 discuss these modifications at technical level.

Subsequently, WP.29 can adopt proposals:

by a qualified majority of the contracting parties present and voting for proposals under the Revised 1958 Agreement; or

by a consensus vote of the contracting parties present and voting for proposals under the Parallel Agreement.

Before each WP.29 meeting, a Council Decision under Article 218(9) of the Treaty on the Functioning of the European Union (TFEU) establishes the position to be taken on behalf of the EU on:

new UN regulations, UN GTRs and UN resolutions; and

amendments, supplements and corrigenda to UN regulations, UN GTRs and UN resolutions.

2.3. The envisaged act of WP.29

From 14 to 16 November 2023, during its 191st session, WP.29 may adopt a series of:

proposals for modifications to UN regulation Nos 0, 14, 16, 17, 24, 43, 48, 53, 74, 86, 90, 94, 95, 100, 122, 129, 134, 135, 137, 145, 149, 153, 154, 157, 160, 161, and 162;

proposals for a new UN regulation on event data recorders for heavy-duty vehicles, and a new UN regulation on child restraint systems for safer transport of children in buses; and

a proposal for an amendment of UN mutual resolution No 1.

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

The WP.29 system strengthens international harmonisation of vehicle standards. The Revised 1958 Agreement plays a key role in achieving this objective. EU manufacturers can use a common set of type approval regulations knowing that contracting parties will recognise their products as compliant with their national legislation.

This made it possible for Regulation (EC) No 661/2009 on the general safety of motor vehicles to repeal more than 50 EU directives and replace them with corresponding regulations developed under the Revised 1958 Agreement.

Regulation (EU) 2018/858 of the European Parliament and of the Council² follows a similar approach. It lays down administrative provisions and technical requirements for 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 in the EU type approval system, either as requirements for type approval or as alternatives to EU legislation.

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).

Once WP.29 has adopted a proposal for a new UN regulation or for modifications to an existing UN regulation, UNECE's Executive Secretary notifies the corresponding act to the contracting parties. Unless a blocking minority of contracting parties objects within 6 months, the act enters into force. Then, each contracting party can transpose the act into its applicable national rules. In the EU, the act's publication in the *Official Journal of the EU* completes the transposition process.

The EU's position needs to be established on the following acts:

- proposals for modifications to UN regulation Nos 0, 14, 16, 17, 24, 43, 48, 53, 74, 86, 90, 94, 95, 100, 122, 129, 134, 135, 137, 145, 149, 153, 154, 157, 160, 161, and 162 to update provisions on:
 - international whole vehicle type approval - updates of transitional provisions applying to new series of amendments to regulations applicable under the international whole vehicle type-approval;
 - anchorages of safety-belts - an update concerning M2 and M3 vehicles, with a forward-facing seat facing a built-in child restraint system, preventing an impact between the adult and the child;
 - safety-belts - updates concerning M2 and M3 vehicles, with a forward-facing seat facing a built-in child restraint system, preventing an impact between the adult and the child;
 - strength of seats - an update ensuring that only safe head restraints can be fitted to seats in all seating positions and all vehicle categories;
 - visible pollutants, measurement of power of compression ignition engines (diesel smoke) – a clarification of the wording regarding the usage of the reference fuel required for emission testing;
 - safety glazing – an update introducing an exemption for a possible opaque obscuration area on the windscreen of M2 vehicles facilitating the installation of interior rear-view mirrors and various safety and convenience features of trucks with open type loading trays;
 - installation of lighting and light-signalling devices for
 - motor vehicles – corrections of requirements on the visibility of red light towards the front and/or white light toward the rear of the vehicle, and updates of requirements on driver assistance projections,
 - L3 vehicles – an update enabling the phasing out of the installation of older lamps/devices,
 - mopeds – an update enabling the phasing out of the installation of older lamps/devices, and
 - agricultural vehicles – an update enabling the phasing out of the installation of older lamps/devices;
 - replacement braking parts – a clarification on the packaging and labelling requirements for some types of brake lining assemblies;
 - frontal impact – an update introducing requirements for the post-crash safety of hydrogen-fuelled vehicles;

- lateral impact – an update introducing requirements for the post-crash safety of hydrogen-fuelled vehicles, and various clarifications;
- electric power trained vehicles – various clarifications, including clarifications regarding the direction of impact in the mechanical integrity test;
- heating systems – an update facilitating the adoption of the new technology of “radiation warmer”, which can be applied to electric vehicles;
- enhanced child restraint systems – clarifications regarding the single belt route principle, and updates introducing requirements and a test procedure for lower tether anchorages;
- hydrogen and fuel cells vehicles – a transposition of UN GTR No 13, Phase 2 text;
- pole side impact – updates introducing requirements for the post-crash safety of hydrogen-fuelled vehicles;
- frontal impact with focus on restraint systems – an update introducing requirements for the post-crash safety of hydrogen-fuelled vehicles;
- ISOFIX anchorage systems, ISOFIX top tether anchorages and i-Size – an update introducing requirements and a test procedure for lower tether anchorages, and a clarification concerning the number of ISOFIX positions;
- road illumination devices – an update of requirements on driver assistance projections;
- fuel system integrity and electric power train safety at rear-end collision - an update introducing requirements for the post-crash safety of hydrogen-fuelled vehicles;
- WLTP – updates introducing the new utility factor approach for plug-in hybrids, in line with the provisions that have recently been introduced in Euro 6e;
- automated lane keeping systems – updates associated with requirements on electromagnetic compatibility;
- event data recorder – clarifications concerning the acceleration data accuracy for the lateral and longitudinal acceleration data element;
- devices against unauthorized use – an update on electromagnetic compatibility requirements; and
- immobilisers – an update on electromagnetic compatibility requirements;
- proposals for a new UN regulation on event data recorders for heavy-duty vehicles, and a new UN regulation on child restraint systems for safer transport of children in buses; and
- a proposal for an amendment of UN mutual resolution No 1 – an update providing specifications for the “WorldSID 50th percentile adult male anthropomorphic test” device to be used for testing of road vehicles for side impact occupant protection.

WP.29 plans to vote on these proposals at its meeting of 14-16 November 2023.

In addition, the EU's position needs to be established on:

- a proposal for a revised authorization to develop a UN GTR on global real driving emissions, which authorises further work under UN GTR based on a methodology for determining the real driving emissions of light duty vehicles appropriately adapted for broader areas of vehicle operation and additional pollutants;
- a proposal for request for authorization to develop a new UN GTR on in-vehicle battery durability for electrified heavy-duty vehicles;
- a proposal for an amendment to guidance on event data recorder performance elements appropriate for adoption in the 1958 and 1998 Agreement resolutions or regulations, which introduces clarifications concerning the acceleration data accuracy for the lateral and longitudinal acceleration data element; and
- a proposal for an update of recommendations for automotive cyber security and software updates by referencing all relevant and current standards, including those of ISO.

The EU should support the above acts as they are in line with its internal market policy on the automotive industry regarding safety, automation, and emissions, as well as its transport, climate and energy policies.

All of these acts have a very positive impact on the competitiveness of the EU automotive sector and on international trade. A vote in favour of these acts would foster technological progress, provide economies of scale, prevent fragmentation of the internal market and ensure that automotive standards are applied equally across the EU.

In contrast, the proposal for supplement 1 to the 10 series of amendments to UN regulation No 17³ is not ready for a vote in the November 2023 WP.29 meeting and needs to be further discussed in a dedicated subsidiary body of WP.29.

External expertise is not relevant for this proposal. However, the Technical Committee on Motor Vehicles has reviewed this proposal.

4. LEGAL BASIS

4.1. Procedural legal basis

4.1.1. Principles

Article 218(9) TFEU states that the Council adopts 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 because of the rules of international law governing the body in question. The concept of ‘acts having legal effects’ 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’⁴.

4.1.2. Application to the present case

WP.29 is a body in which the UNECE contracting parties discuss the implementation of the Revised 1958 Agreement and the Parallel Agreement.

³ ECE/TRANS/WP.29/2023/115

⁴ 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.

The acts that WP.29 is called upon to adopt are acts that have legal effects.

The UN regulations set out in the envisaged act will be binding on the EU. Together with the UN resolution, they will be able to decisively influence 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 on which a position is taken on the EU's behalf.

An envisaged act can have two aims or components, one of which can be identified as the main one and the other as merely incidental. In this case, the decision under Article 218(9) TFEU must be founded on a single substantive legal basis, namely the one for the main or predominant aim or component.

4.2.2. Application to the present case

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

4.3. Conclusion

The legal basis of the proposed decision should be Article 114 TFEU, read 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 Harmonization of Vehicle Regulations of the United Nations Economic Commission for Europe on proposals for modifications to UN regulation Nos 0, 14, 16, 17, 24, 43, 48, 53, 74, 86, 90, 94, 95, 100, 122, 129, 134, 135, 137, 145, 149, 153, 154, 157, 160, 161, and 162, on proposals for a new UN regulation on event data recorders for heavy-duty vehicles, and a new UN regulation on child restraint systems for safer transport of children in buses; and on a proposal for an amendment of UN mutual resolution No 1

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

Whereas:

- (1) By Council Decision 97/836/EC¹, 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 these prescriptions ('Revised 1958 Agreement'). The Revised 1958 Agreement entered into force on 24 March 1998.
- (2) By Council Decision 2000/125/EC², 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 Council³ lays down administrative provisions and technical requirements for 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

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 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).

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 Harmonization of Vehicle Regulations (WP.29) may adopt proposals for modifications to UN regulations, UN GTRs and UN resolutions, and proposals for new UN regulations, UN GTRs and UN resolutions on 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) From 14 to 16 November 2023, during the 191st session of the UNECE World Forum for Harmonization of Vehicle Regulations, WP.29 may adopt:

proposals for modifications to UN regulation Nos 0, 14, 16, 17, 24, 43, 48, 53, 74, 86, 90, 94, 95, 100, 122, 129, 134, 135, 137, 145, 149, 153, 154, 157, 160, 161, and 162;

proposals for a new UN regulation on event data recorders for heavy-duty vehicles, and a new UN regulation on child restraint systems for safer transport of children in buses; and

a proposal for an amendment of UN mutual resolution No 1.
- (6) The UN regulations will be binding on the Union. Together with the UN resolution, they will decisively influence the content of Union law in the field of vehicle type approval. Therefore, it is appropriate to establish the position to be taken on the Union's behalf in WP.29 on the adoption of those proposals.
- (7) To reflect experience and technical developments, the requirements for certain aspects or features covered by UN regulation Nos 0, 14, 16, 17, 24, 43, 48, 53, 74, 86, 90, 94, 95, 100, 122, 129, 134, 135, 137, 145, 149, 153, 154, 157, 160, 161, and 162 and UN mutual resolution No 1, need to be amended or supplemented.
- (8) In order to allow for technical progress and in order to improve safety, a new UN regulation on event data recorders for heavy-duty vehicles, and a new UN regulation on child restraint systems for safer transport of children in buses need to be adopted.
- (9) These proposals are in line with the EU internal market policy on the automotive industry regarding safety, automation, and emissions, as well as its transport, climate and energy policies and have a very positive impact on the competitiveness of the EU automotive sector and on international trade.
- (10) In light of the benefits mentioned it is suggested to vote in favour of these proposals.

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf in the 191st session of the UNECE World Forum for Harmonization of Vehicle Regulations to be held from 14 to 16 November 2023 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.

Done at Brussels,

*For the Council
The President*