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TRANS 33

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL DECISION on the position to be adopted, on behalf of the European Union, in the Group of Experts on the European Agreement concerning the work of crews of vehicles engaged in international road transport (AETR) and in the Working Party on Road Transport of the United Nations Economic Commission for Europe

COUNCIL DECISION (EU) 2021/…

of …

on the position to be adopted, on behalf of the European Union, in the Group of Experts on the European Agreement concerning the work of crews of vehicles engaged in international road transport (AETR) and in the Working Party on Road Transport of the United Nations Economic Commission for Europe

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91 in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) The European Agreement concerning the work of crews of vehicles engaged in international road transport (AETR)[1] entered into force on 5 January 1976. It was last amended on 20 September 2010.

(2) Pursuant to Article 21 AETR, proposed amendments to the AETR may be submitted by any Contracting Party to the Secretary-General of the United Nations (UN). Before submission to the Secretary-General of the UN, the proposals are first discussed in the Working Party on Road Transport (SC.1) of the UN Economic Commission for Europe (UNECE).

(3) A Group of Experts on the AETR has been established by UNECE in the framework of the AETR. That Group is a body empowered to develop and submit proposals to amend the AETR to the UNECE Working Party on Road Transport.

(4) It is envisaged that the Group of Experts on the AETR, during its planned 25th session in February 2021, and the UNECE Working Party on Road Transport, during its planned 116th session in October 2021, will discuss amendments to the AETR relating to the adoption of the smart tachograph.

[1] OJ L 95, 8.4.1978, p. 1.

(5) Article 22*bis* AETR provides that changes to Annex IB to Council Regulation (EEC) No 3821/85[1] concerning the digital tachograph are automatically taken over by all Contracting Parties to the AETR without any formal consultation or vote. The lack of participation of the Contracting Parties to the AETR in the process of development and adoption of technical specifications on the digital tachograph has been a cause of discontent among some of those Contracting Parties. The Commission acknowledges in its communication of 19 July 2011 entitled 'Digital Tachograph: Roadmap for future activities' that this mechanism jeopardises the correct and harmonised implementation of the digital tachograph by non-Union Contracting Parties.

(6) It is in the interest of the Union that the decision-making process envisaged in the AETR as regards control devices, including digital tachographs, be modified, that the procedure set out in Article 22(1), (2) and (3) AETR become applicable to the inclusion of the technical specifications of the smart tachograph in the AETR, and that Article 22*bis* AETR remain in force for possible future amendments to the requirements for the previous versions of the tachograph.

[1] Council Regulation (EEC) No 3821/85 of 20 December 1985 on recording equipment in road transport (OJ L 370, 31.12.1985, p. 8).

(7) Pursuant to Article 10 AETR, a tachograph whose construction, installation, use and testing are carried out in accordance with Regulation (EEC) No 3821/85 is considered to comply with the requirements of the AETR. Article 10 AETR should be amended in order to include a reference to the technical specifications of the smart tachograph, which should be considered to comply with the requirements of the AETR as from the date of entry into force of Appendix 1C to the Annex to the AETR.

(8) Article 13 AETR, which concerns transitional provisions, should be amended to set out the precise date for the implementation by the Contracting Parties of the provisions on smart tachographs.

(9) Article 14 AETR does not allow for the accession of bodies other than States members of UNECE and States admitted to UNECE in a consultative capacity.

(10) There are several arguments in favour of allowing the Union to accede to the AETR. Firstly, the Union has exclusive competence in the area of the work of crews of vehicles engaged in international road transport, as confirmed by the Court of Justice of the European Union in Case 22/70[1]. Secondly, the Union's accession to the AETR would guarantee the effective representation of the Union's interests within the AETR. Finally, the specificities of the AETR and of the proposed decision-making process make it appropriate for the Union to be a Contracting Party. In order to allow for the accession of the Union to the AETR, Article 14 AETR should be amended in order to provide for the accession of regional integration organisations to the AETR.

(11) The technical specifications of the smart tachograph to be included in the AETR as Appendix 1C to the Annex thereto should be developed on the basis of the specifications submitted to the Group of Experts on the AETR on behalf of the Union on 8 April 2020 and on the basis of the specifications to be adopted by the Commission in 2021 under Regulation (EU) No 165/2014 of the European Parliament and of the Council[2].

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1 ECLI:EU:C:1971:32.

2 Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport, repealing Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport (OJ L 60, 28.2.2014, p. 1).

(12) The model for the approval certificate in Chapter III of Appendix 2 to the Annex to the AETR should be amended so that it can also be used for the approval of smart tachographs and its components.

(13) It is appropriate to establish the position to be taken on the Union's behalf in the Group of Experts on the AETR and in the UNECE Working Party on Road Transport, as the AETR should be amended in order to achieve pan-European harmonisation in the field of recording equipment in road transport (tachographs), and such amendments will produce legal effects as referred to in Article 218(9) TFEU.

(14) As the Union is not a Contracting Party to the AETR and its status does not allow it to communicate the proposed amendments, Member States, acting in the interest of the Union, should communicate the proposed amendments to the Group of Experts on the AETR in the spirit of loyal cooperation in order to promote the achievement of the Union's objectives.

(15) The Union's position is to be expressed by the Member States of the Union that are members of the Group of Experts on the AETR and of the UNECE Working Party on Road Transport, acting jointly,

HAS ADOPTED THIS DECISION:

Article 1

The position to be adopted on the Union's behalf in the 25th session of the Group of Experts on the European Agreement concerning the work of crews of vehicles engaged in international road transport (AETR) and in the 116th session of the UNECE Working Party on Road Transport shall be in accordance with the proposed amendments to the AETR[1].

Formal and minor changes to the position referred to in the first paragraph may be agreed without a further decision of the Council.

Article 2

1. The position referred to in Article 1 shall be expressed by the Member States of the Union that are members of the Group of Experts on the AETR and of the UNECE Working Party on Road Transport, acting jointly.

2. The Member States shall communicate the proposed amendments to the Group of Experts on the AETR.

[1] See document ST 5700/21 at http://register.consilium.europa.eu.

Article 3

This Decision shall enter into force on the date of its adoption.

Done at …,

For the Council
The President