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### COVER NOTE

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From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	31 May 2022
To:	General Secretariat of the Council
No. Cion doc.:	COM(2022) 246 final
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 regulations Nos 12, 13, 13-H, 22, 24, 48, 49, 51, 53, 54, 74, 79, 85, 86, 90, 100, 106, 109, 117, 127, 129, 131, 135, 136, 137, 141, 145, 148, 149, 150, 157 and 162, on a proposal for modifications to UN global technical regulation (GTR) No 2, on a proposal for a new UN regulation on reverse warning, on a proposal for a new UN GTR on durability of pollution control devices for two and three-wheelers, on a proposal for a new consolidated resolution concerning exhaust ultra-fine particle numbers measurement for heavy duty vehicles, and on a proposal for authorisation to develop amendment 4 to UN GTR No 3

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Delegations will find attached document COM(2022) 246 final.

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Encl.: COM(2022) 246 final



Brussels, 31.5.2022  
COM(2022) 246 final

2022/0168 (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 regulations Nos 12, 13, 13-H, 22, 24, 48, 49, 51, 53, 54, 74, 79, 85, 86, 90, 100, 106, 109, 117, 127, 129, 131, 135, 136, 137, 141, 145, 148, 149, 150, 157 and 162, on a proposal for modifications to UN global technical regulation (GTR) No 2, on a proposal for a new UN regulation on reverse warning, on a proposal for a new UN GTR on durability of pollution control devices for two and three-wheelers, on a proposal for a new consolidated resolution concerning exhaust ultra-fine particle numbers measurement for heavy duty vehicles, and on a proposal for authorisation to develop amendment 4 to UN GTR No 3**

## 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 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 UN global technical regulations (GTRs).

### **2. CONTEXT OF THE PROPOSAL**

#### **2.1. The Revised 1958 Agreement and the Parallel 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 (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') aim to develop harmonised requirements to remove technical barriers to trade in motor vehicles between the UNECE contracting parties. They also aim to ensure that motor 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. WP.29 administers both of them.

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

WP.29 offers 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 that WP.29 administers. The EU is a party to these Agreements<sup>1</sup>.

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;

new UN GTRs;

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<sup>1</sup> 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).

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 Union 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 21 to 24 June 2022, during its 187th session, WP.29 may adopt:

proposals for modifications to UN regulations Nos 12, 13, 13-H, 22, 24, 48, 49, 51, 53, 54, 74, 79, 85, 86, 90, 100, 106, 109, 117, 127, 129, 131, 135, 136, 137, 141, 145, 148, 149, 150, 157 and 162;

a proposal for modifications to UN global technical regulation (GTR) No 2;

a proposal for a new UN regulation on reverse warning;

a proposal for a new UN GTR on durability of pollution control devices for two and three-wheelers;

a proposal for a new consolidated resolution concerning exhaust ultra-fine particle numbers measurement for heavy duty vehicles; and

a proposal for authorisation to develop amendment 4 to UN GTR No 3.

## **3. POSITION TO BE TAKEN ON THE UNION'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 Council<sup>2</sup> 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

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<sup>2</sup> 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).

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 Union legislation.

Once WP.29 has adopted a proposal for new UN regulation or for modifications to 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 Union's position needs to be established on the following acts:

- proposals for modifications to UN regulations Nos 12, 13, 13-H, 22, 24, 48, 49, 51, 53, 54, 74, 79, 85, 86, 90, 100, 106, 109, 117, 127, 129, 131, 135, 136, 137, 141, 145, 148, 149, 150, 157 and 162 to update provisions on:
  - steering mechanism;
  - heavy vehicle braking;
  - braking of passenger cars;
  - protective helmets and visors;
  - visible pollutants, measurement of power of compression ignition engines (diesel smoke);
  - installation of lighting and light-signalling devices;
  - emissions of compression ignition and positive ignition (LPG and CNG) engines;
  - noise of M and N categories of vehicles;
  - installation of lighting and light-signalling devices for L3 vehicles;
  - tyres for commercial vehicles and their trailers;
  - installation of lighting and light-signalling devices (mopeds);
  - steering equipment;
  - measurement of the net power and the 30 min. power;
  - installation of lighting and light-signalling devices for agricultural tractors;
  - replacement brake parts;
  - electric power train vehicles;
  - tyres for agricultural vehicles;
  - retreaded tyres for commercial vehicles and their trailers;
  - tyre rolling resistance, rolling noise and wet grip;
  - pedestrian safety;
  - enhanced child restraint systems;
  - advanced emergency braking systems;
  - pole side impact;
  - electric vehicles of category L;

- frontal impact with focus on restraint systems;
- tyre pressure monitoring systems;
- ISOFIX anchorage systems, ISOFIX top tether anchorages and i-size seating positions;
- light-signalling devices;
- road illumination devices;
- retro-reflective devices;
- automated lane keeping systems; and
- immobilisers;
- a proposal for modifications to UN GTR No 2 to update provisions on world-wide motorcycle emissions test cycle;
- a proposal for a new UN regulation on reverse warning;
- a proposal for a new UN GTR on durability of pollution control devices for two and three-wheelers; and
- a proposal for a new consolidated resolution concerning exhaust ultra-fine particle numbers measurement for heavy duty vehicles.

WP.29 plans to vote on these proposals at its meeting from 21 to 24 June 2022.

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

- a proposal for authorisation to develop amendment 4 to UN GTR No 3 on motorcycle braking;
- proposals for guidelines, recommendations and new test methods for automated driving systems;
- proposals for provisions on cyber security and software updates;
- a proposal for amendments to the interpretation document on cyber security; and
- a proposal for amendments to the ‘specifications and application guidelines for the unique identifier module’ .

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

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

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

## **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) 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’<sup>3</sup>.

#### *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.

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

The UN regulations within the envisaged act will be binding on the Union. Together with the UN GTRs and UN resolutions, 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 Union'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 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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<sup>3</sup> 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.

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 regulations Nos 12, 13, 13-H, 22, 24, 48, 49, 51, 53, 54, 74, 79, 85, 86, 90, 100, 106, 109, 117, 127, 129, 131, 135, 136, 137, 141, 145, 148, 149, 150, 157 and 162, on a proposal for modifications to UN global technical regulation (GTR) No 2, on a proposal for a new UN regulation on reverse warning, on a proposal for a new UN GTR on durability of pollution control devices for two and three-wheelers, on a proposal for a new consolidated resolution concerning exhaust ultra-fine particle numbers measurement for heavy duty vehicles, and on a proposal for authorisation to develop amendment 4 to UN GTR No 3**

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/EC<sup>1</sup>, 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/EC<sup>2</sup>, 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<sup>3</sup> lays down administrative provisions and technical requirements for type approval and placing on

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<sup>1</sup> 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).

<sup>2</sup> 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).

<sup>3</sup> 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).

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 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 21 to 24 June 2022, during the 187th session of the UNECE World Forum for Harmonization of Vehicle Regulations, WP.29 may adopt: proposals for modifications to UN regulations Nos 12, 13, 13-H, 22, 24, 48, 49, 51, 53, 54, 74, 79, 85, 86, 90, 100, 106, 109, 117, 127, 129, 131, 135, 136, 137, 141, 145, 148, 149, 150, 157 and 162; a proposal for modifications to UN global technical regulation (GTR) No 2; a proposal for a new UN regulation on reverse warning; a proposal for a new UN GTR on durability of pollution control devices for two and three-wheelers; and a proposal for a new consolidated resolution concerning exhaust ultra-fine particle numbers measurement for heavy duty vehicles. Moreover, UNECE WP.29 is to adopt a proposal for authorisation to develop amendment 4 to UN GTR No 3 on motorcycle braking.
- (6) The UN regulations will be binding on the Union. Together with the UN GTRs and UN resolutions, 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 regulations Nos 12, 13, 13-H, 22, 24, 48, 49, 51, 53, 54, 74, 79, 85, 86, 90, 100, 106, 109, 117, 127, 129, 131, 135, 136, 137, 141, 145, 148, 149, 150, 157, 162 and UN global technical regulation (GTR) No 2 need to be amended or supplemented.
- (8) To reflect technical progress and to improve vehicle safety and reduce environmental footprint, a new UN regulation on reverse warning, a new UN GTR on durability of pollution control devices for two and three-wheelers and a new consolidated resolution concerning exhaust ultra-fine particle numbers measurement for heavy duty vehicles need to be adopted.

HAS ADOPTED THIS DECISION:

#### *Article 1*

The position to be taken on the Union's behalf in the 187th session of the UNECE World Forum for Harmonization of Vehicle Regulations to be held from 21 to 24 June 2022 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*