



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 18 December 2012

**Interinstitutional File:
2012/0099 (NLE)**

**15787/1/12
REV 1**

**ECO 132
ENT 278
MI 688
UNECE 20**

NOTE

from: the Council Secretariat
to: the Working Party on Technical Harmonisation (Motor Vehicles)
No Cion prop.: 10074/12 ECO 67 ENT 130 MI 349 UNECE 2
Subject: Proposal for a Council Decision amending Decision 97/836/EC 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')

Delegations will find attached the text of this proposal as it stands following its examination by the Working Party on 17 December 2012.

Proposal for a

COUNCIL DECISION

amending Decision 97/836/EC 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')

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 207(~~34~~) and **thereof, in conjunction with Article** 218(6)(a)(~~v~~)-thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament¹,

Whereas:

(1) By Council Decision 97/836/EC², the Union has acceded 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').

(1a) Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive)³ replaced the Member States' approval systems with a Union approval procedure, establishing a harmonised framework containing the administrative provisions and general technical requirements for all new vehicles, systems, components and separate technical units. That Directive incorporated UNECE Regulations in the EU vehicle type-approval system, either as requirements for type-approval or as alternatives to EU legislation. Since the adoption of Directive 2007/46/EC, UNECE Regulations have increasingly been incorporated in EU legislation in the framework of EU vehicle type-approval.

¹ OJ ... (not yet published **in the Official Journal**).

² OJ L 346, 17.12.1997, p.78.

³ **OJ L 263, 24.2.2011, p.1.**

- (2) ~~The e~~Changes to the Treaties ~~and in particular~~ **on which the Union is founded occurred after** the adoption of **Decision 97/836/EC**. ~~†~~The Treaty on the Functioning of the European Union ~~have~~ **has** substantially altered the ~~decision-making~~ procedure to be followed for the conclusion of agreements between the Union and international organisations, making it necessary to adapt Decision 97/836/EC to the new procedures.
- (3) The procedure for establishing the position to be adopted on the Union's behalf in the United Nations concerning the adoption of UNECE Regulations or amendments to UNECE Regulations should ~~also~~ be adapted to the new procedures ~~under the Treaty and, therefore,~~ ~~should be subject to~~ **set out in** Article 218(9) of the Treaty **on the Functioning of the European Union**.
- (4) The same procedure should also be followed when the Union decides to apply UNECE Regulations to which it has not acceded at the time of its accession to the Revised Agreement or to cease to apply a UNECE Regulation that it has previously accepted.
- (5) It is appropriate that the procedure for adopting proposed amendments to the Revised Agreement submitted by the Union, as well as the decision whether to raise an objection to ~~the~~ **a** proposed amendment, ~~s~~ ~~is~~ **be** the same as the procedure for the accession to international agreements.
- (6) Decision 97/836/EC should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Decision 97/836/EC is **hereby** amended as follows:

- (1) **Paragraphs 2 and 3** of Article 3 ~~is amended as follows~~ **are replaced by the following**:
 - (a) ~~Paragraph 2 is replaced by the following~~:

"2. Pursuant to Article 1(6) of the Revised 1958 Agreement, the Union may, in accordance with the procedure laid down in Article 4(2) ~~of this Decision~~ **218(9) of the Treaty on the Functioning of the European Union (TFEU)**, decide to cease to apply a UNECE Regulation that it has previously accepted."
 - (b) ~~Paragraph 3 is replaced by the following~~:

"3. Pursuant to Article 1(7) of the Revised 1958 Agreement, the Union may, in accordance with the procedure laid down in Article 4(2) ~~of this Decision~~ **218(9) TFEU**, decide to apply one, some or all of the UNECE Regulations to which it has not acceded at the time of its accession to the Revised 1958 Agreement."

(2) Article 4 is **hereby** amended as follows:

(a) Paragraph 2 is replaced by the following:

"2. The Union shall vote in favour of adopting any draft UNECE Regulation or a draft amendment to a **UNECE** Regulation where the draft has been approved in accordance with the procedure set out in Article 218(9) ~~of the Treaty~~ **TFEU**."

(b) Paragraph 4 is deleted. **References to Article 4(4) in Directive 2007/46/EC and Regulation (EC) No 661/2009 shall be construed as references to Article 4(2) of this Decision.**

(3) Article 5 is replaced by the following:

"Article 5

1. The proposed amendments to the Revised 1958 Agreement submitted to the Contracting Parties on behalf of the Union shall be adopted in accordance with the procedure set out in Article 218(6)(a) ~~of the Treaty~~ **TFEU**.
2. The decision whether **or not** to raise an objection, ~~or otherwise,~~ to the **a** proposed amendments to the Revised 1958 Agreement put forward by **another** Contracting Parties shall be taken in accordance with the procedure set out in Article 218(6)(a) ~~of the Treaty~~ **TFEU**.

Where that procedure has not been completed a week before expiry of the deadline provided for in Article 13(2) of the Revised 1958 Agreement, the ~~Commission~~ **Union** shall state an objection to the amendment, ~~on behalf of the Union,~~ before that deadline expires."

(4) Annex III is **hereby** amended as follows:

(a) Point 1 is amended as follows:

(i) The first paragraph is replaced by the following:

"The contribution of the Union with regard to the priorities of the work programme shall be established as appropriate in accordance with the procedure laid down in Articles 218(3) and (4) ~~of the Treaty~~ **TFEU** in conjunction with Article 207(2) ~~of the Treaty~~ **TFEU**."

(ii) In the third paragraph, the first sentence is replaced by the following:

"Following this preparatory phase, the Commission shall represent the Union in the Administrative Committee as set up by Article 1 of the Revised 1958 Agreement as spokesman for the Union, in conformity with Article 207 ~~of the Treaty~~ TFEU."

(b) In point 2, the second sentence of the second paragraph is replaced by the following:

"For this purpose the Commission shall submit its proposal as soon as all of the essential components of the draft UNECE Regulation have been supplied."

Article 2

This Decision shall enter into force on the third day following **that of** its publication in the *Official Journal of the European Union*.

~~*Article 3*~~

~~This Decision shall be notified by the Commission to the Secretary-General of the United Nations.~~

Done at Brussels,

*For the Council
The President*