



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 16 May 2012**

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**PROPOSAL**

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from: European Commission  
dated: 4 May 2012

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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')

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Delegations will find attached a proposal from the Commission, submitted under a covering letter from Mr Jordi AYET PUIGARNAU, Director to Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union.

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Encl.: COM(2012) 202 final



EUROPEAN COMMISSION

Brussels, 4.5.2012  
COM(2012) 202 final

2012/0099 (NLE)

**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')**

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

At international level, the United Nations Economic Commission for Europe (UNECE) develops harmonised requirements, intended to remove technical barriers to the trade in motor vehicles between the Contracting Parties to the Revised 1958 Agreement and to ensure that such vehicles offer a high level of safety and environmental protection.

The objective of this proposal is to simplify and expedite the procedure regarding the voting of UNECE Regulations by the Commission on behalf of the Union, hence reducing the delay in the adoption of these acts in the framework of the UNECE. This is important as the EU vehicle type-approval system currently relies more and more on UNECE Regulations, which are replacing EU legislation (see Regulation (EC) No 661/2009 on General Safety<sup>1</sup>). In addition, quicker adoption of legislation will allow for faster responses to regulatory requests from the operators.

Furthermore, the changes to the Treaties occurred after the adoption of Council Decision 97/836/EC, in particular the adoption of the Treaty on the Functioning of the European Union, have substantially altered the decision making procedure to be followed for the establishment of the position of the Union when voting Regulations to be adopted by the UNECE and the conclusion of agreements between the Union and international organisations, making it necessary to adapt those Decisions to the new procedures.

The present proposal therefore aims at adapting Council Decision 97/836/EC to the decision making procedures regarding international agreements set out in the Treaty on the Functioning of the European Union (TFEU).

- **General context**

By 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 (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")<sup>2</sup> the Union has acceded to the Revised 1958 Agreement.

That Decision should be amended to reflect the changes introduced by the TFEU to the decision making procedure to be followed for the establishment of the position of the Union when voting Regulations to be adopted by the UNECE and the conclusion of agreements between the Union and international organisations.

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<sup>1</sup> Regulation (EC) No 661/2009 of the European Parliament and of the Council of 13 July 2009 concerning type-approval requirements for the general safety of motor vehicles, their trailers and systems, components and separate technical units intended therefor ( OJ L 200, 31.7.2009 )

<sup>2</sup> OJ L 346, 17.12.1997, p.78.

- **Existing provisions in the area of the proposal**

By Council Decision 97/836/EC of 27 November 1997 the Union has 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").

- **Consistency with the other policies and objectives of the Union**

The proposal is in line with the objectives of the common trade policy in accordance with Article 217 TFEU. The participation of the Union at the work of the UNECE helps developing and strengthening the international harmonisation of vehicle-related technical regulations, contributing to facilitate international trade in motor vehicles. The 1958 Agreement plays a key role in this objective since manufacturers can operate a common set of type-approval standards knowing that their products will be recognised by many countries on different continents as being in conformity with their national legislation. International regulatory harmonisation is thus one of the most effective means to prevent obstacles to trade.

## **2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS**

- **Consultation of interested parties**

In developing the proposal the European Commission has consulted stakeholders, in the framework of the Technical Committee – Motor Vehicles.

- **Impact assessment**

No Impact Assessment was conducted for this proposal.

## **3. LEGAL ELEMENTS OF THE PROPOSAL**

- **Summary of the proposed action**

The proposal amends Council Decision 97/836/EC to reflect the changes introduced by the TFEU to the decision making procedure to be followed for the establishment of the position of the Union when voting Regulations to be adopted by the UNECE and the conclusion of agreements between the Union and international organisations.

- **Legal basis**

Considering the legal basis for the Council act being amended was Articles 100a and 113 in conjunction with Article 228(2), first sentence, Article 228(3), second subparagraph and Article 228(4) of the Treaty establishing the European Community, the legal basis of the proposal is Article 207(3) in conjunction with Article 218(6)(a)(v) of the Treaty on the Functioning of the European Union.

- **Subsidiarity principle**

The vote in favour of international instruments like draft UNECE Regulations and their incorporation into the Union system for the type-approval of motor vehicles can only be done by the Union. This does not only prevent fragmentation of the Internal Market, but also ensures equal health and safety standards across the EU. It also offers advantages of economies of scale: products can be made for the whole European market and even the international market, instead of being customised to obtain national type-approval for every single Member State..

The proposal therefore complies with the subsidiarity principle.

- **Proportionality principle**

The proposal complies with the proportionality principle as it does not go beyond what is necessary in order to achieve the objectives of ensuring the proper functioning of the Internal Market while at the same time providing for a high level of public safety and protection.

- **Choice of instruments**

Proposed instrument: Council Decision.

The use of a Council Decision is considered to be appropriate as in line with the requirements of Article 218(6) TFEU.

#### **4. BUDGETARY IMPLICATION**

The proposal has no implication for the Union budget.

#### **5. OPTIONAL ELEMENTS**

- **European Economic Area**

The proposed act does not concern an EEA matter and should therefore not extend to the European Economic Area.

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(3) and 218(6)(a)(v) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament<sup>3</sup>,

Whereas:

- (1) By Council Decision 97/836/EC<sup>4</sup>, 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').
- (2) The changes to the Treaties and in particular the adoption of the Treaty on the Functioning of the European Union have 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 Article 218(9) of the Treaty.
- (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.

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<sup>3</sup> OJ (...) (not yet published).

<sup>4</sup> OJ L 346, 17.12.1997, p.78.

- (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 proposed amendments is the same as 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 amended as follows:

- (1) Article 3 is amended as follows:

- (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, 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, 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 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 Regulation where the draft has been approved in accordance with the procedure set out in Article 218(9) of the Treaty.";

- (b) Paragraph 4 is deleted.

- (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.
2. The decision whether to raise an objection, or otherwise, to the proposed amendments to the Revised 1958 Agreement put forward by other Contracting Parties shall be taken in accordance with the procedure set out in Article 218(6)(a) of the Treaty. 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 shall state an objection to the amendment, on behalf of the Union, before that deadline expires."

(4) Annex III is 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 program shall be established as appropriate in accordance with the procedure laid down in Articles 218(3) and (4) of the Treaty in conjunction with Article 207(2) of the Treaty."

(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."

(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*