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PROPOSAL

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| From: | Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director |
| date of receipt: | 27 October 2014 |
| To: | Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union |
| No. Cion doc.: | COM(2014) 678 final |
| Subject: | Proposal for a COUNCIL DECISION establishing the position to be adopted on the Union's behalf in the Administrative Committee of the United Nations Economic Commission for Europe on the draft new Regulation on hydrogen and fuel cell vehicles |

Delegations will find attached document COM(2014) 678 final.

Encl.: COM(2014) 678 final



Brussels, 27.10.2014
COM(2014) 678 final

2014/0313 (NLE)

Proposal for a

COUNCIL DECISION

establishing the position to be adopted on the Union's behalf in the Administrative Committee of the United Nations Economic Commission for Europe on the draft new Regulation on hydrogen and fuel cell vehicles

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 and systems used for such motor vehicles between the Contracting Parties to the 'Revised 1958 Agreement'¹ and to ensure that such vehicles and systems offer a high level of safety and environmental protection.

The UNECE recently finalised a draft Regulation on uniform provisions concerning the approval of motor vehicles and their components with regard to the safety-related performance of hydrogen-fuelled vehicles². The objective of this draft Regulation is to establish a high level of safety for compressed hydrogen storage systems, vehicle fuel systems and their specific components. The established provisions of Global Technical Regulation No 13 on Hydrogen Safety, as adopted through Council Decision 10157/13³, are effectively transposed into the draft new UNECE Regulation.

The present proposal aims at defining the Union's position with regard to the draft UNECE Regulation on Hydrogen Safety consequently to provide for the Union, represented by the Commission, to vote in favour of this draft.

At EU level, Item 62 of Part I to Annex IV to Directive 2007/46/EC of the European Parliament and of the Council⁴ provides for the application of Regulation (EC) No 79/2009 of the European Parliament and of the Council⁵ concerning hydrogen safety. At a later stage, measures shall be taken to enable the draft UNECE regulation on Hydrogen Safety to be applied within the European Union for the type-approval of vehicles equipped with such systems as equivalent to the current EU Regulation.

- **General context**

¹ Council Decision 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 UNECE Document ECE TRANS/WP.29/2014/78.

³ Council Decision 10157/13 of 11 June 2013 on the position to be adopted on behalf of the European Union within the relevant Committees of the United Nations Economic Commission for Europe regarding the adaptation to technical progress of Regulations Nos 13, 13H, 16, 29, 44, 53, 79, 94, 95, 96, 117 and 130, and regarding the adoption of a proposal for a Global Technical Regulation on hydrogen and fuel cell vehicles and the adaptation to technical progress of Global Technical Regulations Nos 2 and 12 of the United Nations Economic Commission for Europe.

⁴ 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) (OJ L 263, 9.10.2007, p. 1).

⁵ Regulation (EC) No 79/2009 of the European Parliament and of the Council of 14 January 2009 on type-approval of hydrogen-powered motor vehicles, and amending Directive 2007/46/EC (OJ L 35, 4.2.2009, p. 32).

Regulation (EC) No 79/2009 of the European Parliament and of the Council lays down detailed rules for the type-approval of hydrogen fuelled vehicles and their components. It is now envisaged for the Union to vote in favour of the related draft new UNECE Regulation on Hydrogen Safety in order to have common harmonised requirements at international level which will facilitate international trade. This will enable the European vehicle manufacturer and supplier industry to follow one set of requirements recognised worldwide, i.e. in the respective territories of the Contracting Parties to the 'Revised 1958 Agreement', in order to promote the world-wide application of this environmentally friendly technology, by reducing the industry's burden of double testing and certification according to diverging national or regional legislation related to hydrogen fuelled vehicles.

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

Regulation (EC) No 79/2009 of the European Parliament and of the Council on type-approval of hydrogen-powered motor vehicles.

Commission Regulation (EU) No 406/2010 of 26 April 2010 implementing Regulation (EC) No 79/2009 of the European Parliament and of the Council on type-approval of hydrogen-powered motor vehicles⁶.

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

The proposal is in line with the objectives of the Framework Directive on the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, as well as the objectives of Regulation (EC) No 79/2009 on type-approval of hydrogen-powered motor vehicles. The proposal is therefore consistent with the EU objective to provide for a high level of road safety concerning motor vehicles.

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. There has been general consultation through the UNECE informal working group on Hydrogen Safety under the Working Party on Passive Safety (GRSP) as well as dissemination of information and subsequent discussions in the Technical Committee – Motor Vehicles during the development of the Global Technical Regulation on Hydrogen Safety and the subsequent draft new UNECE Regulation based on the Global Technical Regulation.

- **Impact assessment**

The European Commission had an impact assessment carried out for Regulation (EC) No 79/2009 which encompasses Hydrogen Safety. The provisions as proposed under UNECE are complementary, but have also been analysed through the European Commission's study on Hydrogen-Powered Vehicles: A Comparison of the European Legislation and the Draft UNECE Global Technical Regulation (Specific Contract No SI2.575155) under Multiple framework contracts for the provision of

⁶ Commission Regulation (EU) No 406/2010 of 26 April 2010 implementing Regulation (EC) No 79/2009 of the European Parliament and of the Council on type-approval of hydrogen-powered motor vehicles (OJ L 122, 18.5.2010, p. 1)

consultancy services in the automotive sector (ENTR/2009/030).

3. LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

The proposal defines the Union's position in the voting of the draft new UNECE Regulation concerning the approval of motor vehicles and their components with regard to the safety-related performance of hydrogen-fuelled vehicles.

- **Legal basis**

The legal basis for this proposal is Article 114, in conjunction with Article 218(9) of the Treaty on the Functioning of the European Union.

- **Subsidiarity principle**

Requirements for motor vehicle hydrogen safety are already harmonised at Union level. The new provisions will be complementary in nature. The vote in favour of international instruments like draft UNECE regulations and their incorporation into the Union system for the type-approval of systems used in motor vehicles can only be done by the Union. This does not only prevent fragmentation of the Internal Market, but also ensures an equal level of safety standards across the Union. 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**

The use of a Council Decision is required by Article 218(9) TFEU in order to establish the position to be adopted on the Union's behalf in a body set up by an international agreement.

4. BUDGETARY IMPLICATION

The proposal has no implication for the Union budget.

Proposal for a

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THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

Whereas:

- (1) By Council Decision 97/836/EC⁷, 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').
- (2) The standardised requirements of the draft new UNECE Regulation on uniform provisions concerning the approval of motor vehicles and their components with regard to the safety-related performance of hydrogen-fuelled vehicles⁸ are intended to remove technical barriers to the trade in motor vehicles and their components between the Contracting Parties to the 'Revised 1958 Agreement' and to ensure that such vehicles and components offer a high level of safety and protection.
- (3) It is appropriate to establish the position to be adopted on the Union's behalf in the Administrative Committee of the Revised 1958 Agreement concerning the adoption of that draft UNECE Regulation,

⁷ Council Decision 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).

⁸ UNECE Document ECE TRANS/WP.29/2014/78

HAS ADOPTED THIS DECISION:

Sole Article

The position to be adopted on the Union's behalf in the Administrative Committee of the Revised 1958 Agreement shall be to vote in favour of the draft new UNECE Regulation on uniform provisions concerning the approval of motor vehicles and their components with regard to the safety-related performance of hydrogen-fuelled vehicles, as contained in document ECE TRANS/WP.29/2014/78.

Done at Brussels,

*For the Council
The President*

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