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2012/0291 (NLE)

Proposal for a

COUNCIL DECISION

**on the position to be taken by the European Union within the Administrative Committee
of the United Nations Economic Commission for Europe concerning the draft
Regulation on enhanced Child Restraint Systems**

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 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 Enhanced Child Restraint Systems used on board of motor vehicles¹. The objective of this draft regulation is to establish a high level of safety for children transported in motor vehicles while seated in such systems.

At EU level, Council Directive 91/671/EEC relating to the compulsory use of safety belts and child-restraint systems in vehicles² in its Article 2 mandates the use of appropriate child restraint systems in motor vehicles.

The present proposal aims at defining the Union position with regard to the draft UNECE regulations on Enhanced Child Restraint Systems and consequently to provide for the Union, represented by the Commission, to vote in favour of this draft.

At a later stage, measures shall be taken to enable for the draft UNECE regulation on Enhanced Child Restraint Systems to be applied within the European Union for the type-approval of such systems as well as the use of the systems by EU citizens.

- **General context**

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 therefor³ lays down basic requirements for the type-approval of Child Restraint Systems through direct reference to UNECE Regulation No 44 – uniform provisions concerning the approval of restraining devices for child occupants of power-driven vehicles ('Child Restraint Systems')⁴. It was necessary to incorporate the direct reference to the specific requirements for type-approval of Child Restraint Systems under UNECE and thus also at the EU level.

Hence it is now envisaged for the Union to vote in favour of the related draft UNECE Regulation on Enhanced Child Restraint Systems in order to have common harmonised requirements at international level which will facilitate international trade. This will enable European companies to follow one set of requirements recognised worldwide, i.e. in the

¹ UNECE Document ECE TRANS/WP.29/2012/53.

² OJ L 373, 31.12.1991, p. 26.

³ OJ L 200, 31.7.2009, p. 1.

⁴ OJ L 233, 9.9.2011, p. 95.

countries Contracting Parties to the Revised 1958 UNECE Agreement, related to the measures for the new generation of Child Restraint Systems .

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

Council Directive 77/541/EEC on the approximation of the laws of the Member States relating to safety belts and restraint systems of motor vehicles⁵ with regard to the requirements for Child Restraint Systems as laid down in its Annex XVII.

Council Directive 91/671/EEC relating to the compulsory use of safety belts and child-restraint systems in vehicles, including provisions for the use of Child Restraint Systems in motor vehicles.

Regulation (EC) No 661/2009 on General Safety with regard to the direct reference to UNECE regulation No 44 – uniform provisions concerning the approval of restraining devices for child occupants of power- driven vehicles (‘Child Restraint Systems’).

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

The proposal is in line with the objectives of Directive 91/671/EEC on safety belt and child restraint use and is therefore consistent with the EU objective to provide for a high level of road safety for children transported in 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 Child Restraint Systems 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 ongoing development of the draft.

- **Impact assessment**

The European Commission had an impact assessment carried out for Regulation (EC) No 661/2009 which encompasses Child Restraint Systems. The provisions for Enhanced Child Restraint Systems are complementary. Further relevant analysis has been made available through the projects CASPER (Child Advanced Safety Project for European Roads) and EPOCh (Enable Protection for Older Children) of the Seventh Framework Programme which has been taken onboard by the informal working group on Child Restraint Systems under the Working Party on Passive Safety (GRSP) of UNECE.

3. LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

⁵ OJ L 220, 29.08.1977, p. 95.

The proposal will enable the Union, represented by the Commission, to vote in favour of the draft UNECE Regulations on Enhanced Child Restraint Systems.

- **Legal basis**

In order to adapt for the specificities of the Treaty on the Functioning of the European Union, the previously used legal basis referred to in recital 1 has been replaced by a direct reference to Article 218(9), with the need for a modified preparation process for the WP29 meetings and resulting in a changed legal format, which is a Council Decision, rather than a Commission Decision used during the preparation process in the last 14 years.

- **Subsidiarity principle**

Requirements for Child Restraint Systems are already harmonised at EU level. The new provisions are complementary for the new generation of Child Restraint Systems. 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 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 or other territories under UNECE.

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(9) TFEU.

4. BUDGETARY IMPLICATION

The proposal has no implication for the Union budget.

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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/EC⁶, 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 UNECE Regulation on uniform provisions concerning the approval of enhanced Child Restraint Systems used on board of motor vehicles⁷ are intended to remove technical barriers to the trade in motor vehicle-related child restraint systems between the Contracting Parties to the Revised 1958 Agreement and to ensure that such systems offer a high level of safety and protection.
- (3) It is appropriate to establish the position to be taken on the Union's behalf in the Administrative Committee of the Revised 1958 Agreement concerning the adoption of that draft UNECE Regulation,

⁶ OJ L 346, 17.12.1997, p. 78.

⁷ UNECE Document ECE TRANS/WP.29/2012/53.

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken by the European Union, represented by the Commission, within the Administrative Committee of the Revised 1958 Agreement shall be to vote in favour of the draft UNECE Regulation on uniform provisions concerning the approval of enhanced Child Restraint Systems used on board of motor vehicles, as contained in document ECE TRANS/ WP.29/2012/53.

Article 2

This Decision shall enter into force on the day of its notification.

Article 3

This Decision is addressed to the European Commission.

Done at Brussels,

*For the Council
The President*