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97/836/EC: 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')

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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') (97/836/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and in particular Articles 100a and 113 thereof, in conjunction with Article 228 (2), first sentence, Article 228 (3) second subparagraph, and Article 228 (4) thereof,

Having regard to the proposal by the Commission (1),

Having regard to the assent of the European Parliament (2),

(1) Whereas, in its Decision of 23 October 1990, the Council authorized the Commission to take part in the negotiations concerning the revision of the United Nations Economic Commission for Europe (ECE) Agreement concerning the adoption of uniform conditions of approval and reciprocal recognition of approval for motor vehicle equipment and parts, done at Geneva on 20 March 1958;

(2) Whereas the 1958 Agreement has been revised;

(3) Whereas, as a result of the aforementioned negotiations, the Community has the option of becoming a Contracting Party to the Revised Agreement in its capacity as a regional economic integration organization to which its Member States have transferred powers in the area covered by the Agreement;

(4) Whereas accession to the Revised Agreement constitutes an aim of common trade policy in accordance with Article 113 of the Treaty to remove technical barriers to trade in motor vehicles between the Contracting Parties; whereas involvement by the Community will add weight to the harmonization activities conducted pursuant to that Agreement and will thus permit easier access to third-country markets; whereas that involvement must result in the establishment of consistency between the instruments referred to as 'Regulations', adopted under the Revised Agreement, and Community legislation in this area;

(5) Whereas the approval of motor vehicles and technical harmonization are conducted on the basis of Directives concerning vehicle systems, components and separate technical units pursuant to Article 100a of the Treaty, which concerns the establishment and functioning of the internal market; whereas, since 1 January 1996 in respect of category M1 vehicles, the harmonization is total and mandatory within the meaning of Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers (3) and the separate Directives on this category of vehicle;

(6) Whereas accession to the Revised Agreement by the Community requires amendments to instruments adopted in accordance with the procedure provided for in Article 189b of the Treaty; whereas the assent of the European Parliament is therefore required;

(7) Whereas the instruments referred to as 'Regulations' adopted within the bodies pursuant to the Revised Agreement will bind the Community on expiry of a six-month period following their notification if the Community has not made known its opposition to them; whereas it should therefore be stipulated that the Community vote concerning such instruments should be preceded by a decision adopted in accordance with the same procedure as that applying to the accession to the Revised Agreement, if those instruments do not simply constitute adaptation to technical progress;

(8) Whereas, however, assuming that the adoption of a regulation of this type merely constitutes an adaptation to technical progress, the Community vote may be decided on in accordance with the procedure used for technical adaptations to Directives on vehicle type-approval;

(9) Whereas it is appropriate to establish practical arrangements with regard to the involvement of the Community and the Member States in the Revised Agreement;

(10) Whereas the Revised Agreement provides for a simplified procedure for its amendment; whereas a form of decision-making at Community level should be instituted which takes account of the constraints of that procedure;

(11) Whereas, as required by the Revised Agreement, any new Contracting Party has the option, when lodging its instruments of accession, of declaring concomitantly that it intends not to be bound by certain UN/ECE Regulations of which it must give details; whereas the Community wishes to make use of that provision in order to accede immediately to the list of Regulations considered to be essential to the proper functioning of the vehicle approval system, as defined earlier in Directives 70/156/EEC, 74/150/EEC (4) and 92/61/EC (5), and, in view of their importance as regards the approval of vehicles at Community level and, likewise, at international level, to examine the scope for subsequently acceding to other Regulations on a case-by-case basis;

(12) Whereas that accession does not prejudice the option of ceasing to apply the UN/ECE Regulations set out in the list accepted by the Community, as provided for in Article 1 (6) of the Revised Agreement; whereas such ceasing to apply will in particular concern cases where the Community adopts more stringent limit values for pollutant and noise emissions and the corresponding UN/ECE Regulations are not amended accordingly;

(13) Whereas, where the Community accedes not to all of the UN/ECE Regulations, but to a defined list of such Regulations considered essential to the proper functioning of the vehicle approval procedure, those Member States subscribing to such Regulations to which the Community does not accede should be permitted to continue to manage and develop those Regulations;

(14) Whereas, in pursuance of Article 234 of the Treaty, Member States should ensure that there is currently no incompatibility between the UN/ECE Regulations signed earlier, but to which the Community is not acceding, and the corresponding current Community legislation;

(15) Whereas the subscription to UN/ECE Regulations by Member States should not be incompatible with the provisions of Directives 70/156/EEC, 74/150/EEC and 92/61/EEC, and should take account of the procedures of Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations (6);

(16) Whereas, under Community rules, it is up to the Member States to implement the obligations deriving from Articles 2, 4 and 5 of the Revised Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The Community shall accede to the United Nations Economic Commission for Europe Agreement 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, hereinafter referred to as the 'Revised Agreement'.

The text of the Revised Agreement is set out as Annex I to this Decision.

Article 2

The President of the Council shall be authorized to designate the person empowered to lodge the instrument of accession as required by Article 6 (3) of the Revised Agreement and to make the notification contained in Annex IV to this Decision.

Article 3

1. Pursuant to Article 1 (5) of the Revised Agreement, the Community shall state that its accession will be restricted to implementation of the UN/ECE Regulations listed in Annex II to this Decision.

2. Pursuant to Article 1 (6) of the Revised Agreement, the Community may, in accordance with the procedure laid down in the second indent of Article 4 (2) of this Decision, decide to cease to apply a UN/ECE Regulation that it has previously accepted.

3. Pursuant to Article 1 (7) of the Revised Agreement, the Community may, in accordance with the procedure laid down in the second indent of Article 4 (2) of this Decision, decide to apply one, some or all of the UN/ECE Regulations to which it has not acceded at the time of its accession to the Revised Agreement.

Article 4

1. The practical arrangements with regard to the involvement of the Community and the Member States with regard to the work of the UN/ECE are set out in Annex III.

The contribution of the Community with regard to the priorities of the work programme of the UN/ECE shall be established in conformity with the procedure set out in Annex III, point 1.

2. The Community shall vote in favour of adopting any draft UN/ECE Regulation or a draft amendment to a Regulation

- where, if an existing Regulation to which it has acceded is being adapted to technical progress, the draft has been approved in accordance with the procedure set out in Article 13 of Directive 70/156/EEC,

- in all other instances, where on a proposal from the Commission and on receiving the assent of the European Parliament, the Council has approved the draft by a qualified majority.

3. Where a UN/ECE Regulation or an amendment to a UN/ECE Regulation is adopted without the Community

having voted in favour, the Community shall express an objection in accordance with the second subparagraph of Article 1 (2) of the Revised Agreement.

4. On the assumption that the Community votes in favour of a UN/ECE Regulation or amendment to a UN/ECE Regulation, the decision shall also state whether that Regulation shall become part of the EC whole vehicle type-approval system and replace existing law within the Community.

5. The UN/ECE Regulations and amendments to UN/ECE Regulations binding on the Community shall be published in the official languages of the Communities in the Official Journal of the European Communities before entering into force.

Article 5

1. The proposed amendments to the Revised Agreement submitted to the Contracting Parties on behalf of the Community shall be adopted by the Council acting on a qualified majority, on a proposal from the Commission and having received the opinion of the European Parliament.

2. The decision whether to raise an objection, or otherwise, to the proposed amendments to the Revised Agreement put forward by other Contracting Parties shall be taken in accordance with the procedure followed in order to accede to that Agreement. Where that procedure has not been completed a week before expiry of the deadline provided for in Article 13 (2) of the Revised Agreement the Commission will state an objection to the amendment, on behalf of the Community, before that deadline expires.

Article 6

Those Member States which will subscribe, or have subscribed, to UN/ECE Regulations to which the Community is not bound may continue to manage and develop those Regulations by adopting amendments reflecting technical progress while ensuring:

- that subscription to these Regulations is not incompatible with the provisions of Directives 70/156/EEC, 74/150/EEC and 92/61/EEC, and
- that the procedures of Directive 83/189/EEC are observed.

Done at Brussels, 27 November 1997.

For the Council

The President

G. WOHLFART

(1) OJ C 69, 7. 3. 1996, p. 4.

(2) Assent delivered on 21 November 1997 (not yet published in the Official Journal).

(3) OJ L 42, 23. 2. 1970, p. 1. Directive as last amended by Directive 96/27/EC (OJ L 169, 8. 7. 1996, p. 1).

(4) OJ L 84, 24. 3. 1974, p. 10. Directive as last amended by the 1994 Act of Accession.

(5) OJ L 225, 10. 8. 1992, p. 72. Directive as last amended by the 1994 Act of Accession.

(6) OJ L 109, 26. 4. 1983, p. 8. Directive as last amended by Commission Decision 96/139/EC (OJ L 32, 10. 2. 1996, p. 31).