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2013/0333 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be taken by the Union within the Administrative Committee of the United Nations Economic Commission for Europe regarding the draft Regulation on uniform provisions concerning the approval of Retrofit Emission Control Devices (REC) for heavy duty vehicles, agricultural and forestry tractors and non-road mobile machinery equipped with compression ignition engines

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 Retrofit Emission Control Devices (REC) for heavy duty vehicles, agricultural and forestry tractors and non-road mobile machinery equipped with compression ignition engines. The objective of this draft regulation is to establish a set of requirements for the approval of those devices, which ensures an acceptable level of environmental performance and correct operation during its lifetime.

The present proposal aims at defining the Union position with regard to the draft UNECE regulation concerning the approval of REC and consequently to provide for the Union, represented by the Commission, to vote in favour of this draft.

- **General context**

Technical requirements on type-approval of retrofit equipment intended for the reduction of emissions are currently addressed at national level. With the adoption of the draft UNECE Regulation on approval of REC, an important step forward will be taken in terms of market harmonisation and removal of eventual trade barriers regarding REC equipment, since MS within the EU may take the text over as reference when setting up their national legislations.

Hence it is now envisaged for the Union to vote in favour of the related draft UNECE Regulation on approval of REC 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 countries Contracting Parties to the Revised 1958 UNECE Agreement.

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

The technical requirements in the area of the proposal are currently addressed at national level, and thus so far there is neither EU legislation nor UNECE legislation.

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

The proposal is in line with the objectives of Regulation (EC) No 595/2009 on type-approval of motor vehicles and engines with respect to emissions from heavy duty vehicles (Euro VI), and Directive 97/68/EC on the approximation of the laws of Member States relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery, being therefore consistent with the EU objective of providing for a high level of environmental protection throughout the territory of the Union.

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

- **Consultation of interested parties**

In developing the proposal, the European Commission has participated in the UNECE Informal Group on REC, where representatives of stakeholders as well as MS have met. In addition, in the course of the drafting of the document, key aspects of the text were discussed in the meeting of the Technical Committee- Motor Vehicles of 10 July 2012.

- **Impact assessment**

The provisions on retrofit emission control devices can be considered as complementary to UNECE and EU emissions legislation on type-approval of heavy-duty engines and vehicles (Euro VI) and non-road mobile machinery. In the case of the former, an impact assessment has been carried out where several policy options have been assessed. Regarding non-road mobile machinery, an impact assessment is currently being elaborated, and therefore no separate impact assessment is considered to be needed for the purposes of adopting the draft UNECE Regulation.

3. LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

The proposal will enable the Union, represented by the Commission, to vote in favour of the draft UNECE Regulation on uniform provisions concerning the approval of Retrofit Emission Control Devices (REC) for heavy duty vehicles, agricultural and forestry tractors and non-road mobile machinery equipped with compression ignition engines.

- **Legal basis**

Taking into consideration the object and content of the Council Decision, the legal bases are Articles 114 and 218(9) TFEU. The procedure to be followed for the adoption of the Council Decision is the one laid down in Article 4(2) of Council Decision 97/836/EC.

- **Subsidiarity principle**

Directive 2008/50/EC sets out air quality objectives with respect to the different pollutants, and leaves to the judgement of MS the decision on the precise measures to be undertaken in order to comply with the abovementioned objectives. In this respect, retrofit emission control devices may play a fundamental role, since its fitting into vehicles already placed in the market is an element often addressed at national level as part of the necessary actions to improve the air quality.

Given the background above, and according to the subsidiarity principle, it is appropriate for the EU to accede to the UNECE Regulation on approval of REC, while respecting the capacity of MS to decide whether the Regulation should be applied, at their respective national levels, for the purposes of mandatory type-approval of REC equipment, or other different purposes. However, and without prejudice of the faculty of MS to decide within the scope of their competences, the basic rules of the 1958 Agreement shall apply to the whole of the EU and in the same manner to all MS.

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 environmental 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/EC¹, the Union 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 Retrofit Emission Control Devices (REC) for heavy duty vehicles, agricultural and forestry tractors and non-road mobile machinery equipped with compression ignition engines² are intended to remove technical barriers to the trade of REC devices between the Contracting Parties to the Revised 1958 Agreement and to ensure that such systems offer a high level of performance and environmental 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,

¹ OJ L 346, 17.12.1997, p. 78.

² UNECE Document ECE TRANS/WP.29/GRPE/2013/6.

HAS ADOPTED THIS DECISION :

Sole Article

The position to be taken by the 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 Retrofit Emission Control Devices (REC) for heavy duty vehicles, agricultural and forestry tractors and non-road mobile machinery equipped with compression ignition engines, as contained in document ECE TRANS/ WP.29/ /2013/119.

Done at Brussels,

For the Council