II

(Preparatory Acts)

COMMISSION

Proposal for a Council Decision with a view to accession by the European Community to the 1958 Revised Agreement concerning the adoption of uniform conditions of approval and reciprocal recognition of approval for motor vehicle equipment and parts

(96/C 69/05)

COM(95) 723 final — 96/0006(AVC)

(Submitted by the Commission on 15 January 1996)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal by the Commission;

Having received the assent of the European Parliament;

Whereas, in its Decision of 23 October 1990, the Council had authorized the Commission to take part in the negotions concerning the revision of the 1958 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 (hereinafter referred to as the 'Revised Agreement');

Whereas, as a result of those negotiations, the European Community has the option of becoming a contracting party to the Revised Agreement in its capacity as a regional economic integration body to which its Member States have transferred powers in the area covered by the Agreement;

Whereas accession to that Agreement constitutes an aim of common trade policy in accordance with Article 113 of the Treaty to remove technical barriers to the trade in motor vehicles between the contracting parties; whereas involvement by the Community will add weight to the harmonization activities conducted under that Agreement and will thus permit easier access to third-country markets; whereas that involvement must result in the establishment of coherence between the instruments referred to as 'regulations' adopted under the Revised Agreement and Community law in this area;

Whereas the approval of motor vehicles and technical harmonization are conducted on the basis of Directives concerning vehicle systems, components and separate technical units under Article 100a on the establishment and operation of the internal market and that, from 1 January 1996 in respect of Category M1 vehicles, the harmonization will be total and mandatory under framework Directive 70/156/EEC and the separate Directives on this category of vehicle;

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

Whereas the instruments referred to as 'regulations' adopted within the bodies under the Agreement will bind the European Community on expiry of a six-month period following their notification if the Community has not made known its opposition to these; 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 conclusion of the Agreement, if those instruments do not constitute a simple adaptation to technical progress;

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 upon by the Commission, assisted by a committee consisting of representatives of the Member States;

Whereas, in view of its technical nature, the Community position concerning the preparation of the 'regulations' may be established by the Commission;

Whereas the 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;

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; whereas that contracting party shall give details; whereas the Community wishes to make use of that provision in order (a) 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 Directive 92/53/EEC [1] and (b) 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;

Whereas that accession does not prejudice the option of repealing the regulations set out in the list accepted by the Community, as provided for in Article 1 (6) of the Revised Agreement;

Whereas, where the Community accedes not to all of the UN/ECE regulations, but to a defined list of regulations considered essential to the proper functioning of the vehicle approval procedure, those Member States subscribing to the regulations to which the Community does not accede should be permitted to continue to manage and develop these in accordance with a procedure applying to prior notification of the Commission, in order to forestall incompatibility with the Community vehicle approval system;

Whereas, pursuant to Article 234 of the Treaty, Member States shall 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 regulations,

HAS ADOPTED THE FOLLOWING DECISION:

Article 1

The European Community shall accede to the Revised 1958 United Nations Economic Commission for Europe Agreement concerning the adoption of uniform conditions of approval and reciprocal recognition of approval for motor vehicle equipment and parts.

The wording of the Revised Agreement is appended 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 following the entry into force of that Agreement.

Article 3

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

2. Pursuant to Article 1 (6) of the Revised Agreement the Community may, in accordance with the provisions of Article 113 of the Treaty, decide to repeal a UN/ECE regulation that it has previously accepted.

Article 4

1. The Community's position with regard to the preparation of the UN/ECE regulations shall be established by the Commission.

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 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 as amended by Directive 92/53/EEC [2],

— 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. On the assumption that the Community votes in favour of a regulation or amendment to a regulation, the decision shall also state whether that regulation or amendment is mandatory or optional within the European Union, depending upon the vehicle category to which it applies.

4. The Commission shall then amend Annex IV to Directive 70/156/EEC, together with the separate directives concerned, as appropriate.

[1] Annex IV, part II, to Directive 92/53/EEC.

[2] OJ No L 225, 10. 8. 1992, p. 1.

Article 5

1. The proposed amendments to the 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 assent of the European Parliament.

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

Article 6

1. Those Member States subscribing to the regulations to which the Community does not accede may continue to manage and develop these by adopting amendments reflecting technical progress. However, a Member State shall give prior notice thereof to the Commission, which will satisfy itself that there is no incompatibility in the longer term with the Community approval system and with the Community's aims in this area. On this assumption the Commission may, within a period of six months following notification and in accordance with the procedure provided for in Article 13 of Directive 92/53/EEC, decide to suspend the involvement of those Member States in the work in progress on the regulation or regulations concerned.

2. Likewise, any new draft acceptance, by a Member State, of a regulation to which the Community has not acceded shall be subject to prior notification of the Commission which, within a six-month period, may decide to block that intention in accordance with the procedure set out in Article 13 of Directive 92/53/EEC.

ANNEX

1. With regard to motor vehicles, the European Community intends to restrict its accession to the revised 1958 Agreement to the recognition and approval of the UN/ECE regulations set out in the following list.

Basic Regulation number	Series of amendments	Subject
1	01	Head lamps (including R_2 lamps)
3	02	Reflex reflector
4	—	Rear registration plate lamp
5	02	Head lamps (sealed beam)
6	01	Direction indicators
7	02	End-outline/front-side/rear-side/stop lamps
8	04	Head lamps (H_1, H_2, H_3, HB_3, HB_4, and/or H_7)
10	01	Radio suppression
11	02	Door latches and hinges
12	03	Behaviour of steering device under impact
13	08	Braking
14	03	Seat belt anchorages
16	04	Seat belts
17	04	Seat strength
17/25	04/03	Head restraints
18	01	Anti-theft
19	02	Front fog lamps
20	02	Head lamps (H_4)
21	01	Interior fittings
23	—	Reversing lamps
24	03	Diesel smoke
26	02	Exterior projections
28	—	Audible warning
30	02	Tyres, motor vehicles and their trailers
31	02	Head lamps (halogen sealed beam)
37	03	Filament lamps for use in approved lamp units
38	—	Rear fog lamps
39	—	Speedometer
43	—	Safety glass
45	01	Head lamp cleaners
46	01	Rear view mirrors
48	01	Installation of lighting and light signalling devices
49	02	Diesel emission
51	02	Sound levels
54	—	Tyres, commercial vehicles and their trailers
58	01	Rear protective device
59	—	Replacement silencing systems
64	—	Tyres, temporary use spare wheels/tyres
71	—	Field of vision, agricultural tractors
73	—	Lateral protection
77	—	Parking lamps
79	—	Steering effort
83	01	Emissions
84	—	Fuel consumption
85	—	Engine power
86	—	Installation of lighting and light-signalling devices, agricultural tractors
87	—	Daytime running lamps
90	—	Replacement brake lining assemblies
91	—	Side marker lamps

Apart from those concerning pollutant and noise emissions, the UN/ECE regulations listed above, replace the technical annexes to the relevant separate EC Directives where the latter possess the same scope. However, the additional Directive provisions, such as those concerning fitting requirements or the approval procedure, remain in force where compatible with the provisions of the UN/ECE regulations.

In line with the provisions of Directive 70/156/EEC, the UN/ECE regulations set out in the list above will become mandatory on 1 January 1996 in respect of the M1 categories.

The implementation of the UN/ECE regulations on pollutant and noise emissions remains optional within the Union. Thus the Community undertakes to accept a vehicle from a non-member country that complies with those regulations, while the Community Directives on pollutant and noise emissions continue to be the only form of regulation to be applied by the Member States of the Community when type approval is granted in that area. Moreover, it is clear that, assuming that the UN/ECE regulations differ from the relevant directives, the Community may decide to extricate itself from its reciprocal-recognition obligation in this area by withdrawing from the UN/ECE regulation(s) concerned, in line with Article 1 (6) of the Revised Agreement and Article 3 of this Decision.

2. The Community is restricting its accession, in respect of two or three-wheel motor vehicles, to the following list of UN/ECE regulations, in the version covered by the successive amendments in force on the date of accession of the Community:

— Regulation No 53 concerning the installation of lighting and light signalling devices,

— Regulation No 60 on controls activated by the driver, including identification of the controls, warning lights and indicators,

— Regulation No 74 on the installation of lighting and light-signalling devices,

— Regulation No 78 on the braking of category-L vehicles.

These regulations replace the technical annexes to the relevant separate EC Directives, where the latter have the same scope. However, the additional provisions of the Directives, such as those concerning fitting requirements or the approval procedure, will remain in force where they are compatible with the provisions of the UN/ECE regulations.