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**\*\*\*II**

## **RECOMMENDATION FOR SECOND READING**

on the common position adopted by the Council with a view to the adoption of the European Parliament and Council Directive on speedometers for two- or three-wheel motor vehicles and amending Council Directive 92/61/EEC on the type-approval of two- or three-wheel motor vehicles  
(6884/1/1999 - C5-0029/1999 – 1998/0163(COD))

Committee on Legal Affairs and the Internal Market

Rapporteur: Mr Enrico Ferri

<b><i>Symbols for procedures</i></b>	<b><i>Abbreviations for committees</i></b>
<p>* Consultation procedure <i>majority of the votes cast</i></p> <p>**I Cooperation procedure (first reading) <i>majority of the votes cast</i></p> <p>**II Cooperation procedure (second reading) <i>majority of the votes cast, to approve the common position</i> <i>majority of Parliament's component Members, to reject or amend the common position</i></p> <p>*** Assent procedure <i>majority of Parliament's component Members to give assent</i> <i>majority of the votes cast in cases covered by Articles 105, 107, 161 and 300 of the EC Treaty and Article 7 of the EU Treaty</i></p> <p>***I Codecision procedure (first reading) <i>majority of the votes cast</i></p> <p>***II Codecision procedure (second reading) <i>majority of the votes cast, to approve the common position</i> <i>majority of Parliament's component Members, to reject or amend the common position</i></p> <p>***III Codecision procedure (third reading) <i>majority of the votes cast, to approve the joint text</i></p> <p>(The type of procedure depends on the legal basis proposed by the Commission)</p>	<p>I. AFET Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy</p> <p>II. BUDG Committee on Budgets</p> <p>III. CONT Committee on Budgetary Control</p> <p>IV. LIBE Committee on Citizens' Freedoms and Rights, Justice and Home Affairs</p> <p>V. ECON Committee on Economic and Monetary Affairs</p> <p>VI. JURI Committee on Legal Affairs and the Internal Market</p> <p>VII. INDU Committee on Industry, External Trade, Research and Energy</p> <p>VIII. EMPL Committee on Employment and Social Affairs</p> <p>IX. ENVI Committee on the Environment, Public Health and Consumer Policy</p> <p>X. AGRI Committee on Agriculture and Rural Development</p> <p>XI. PECH Committee on Fisheries</p> <p>XII. REGI Committee on Regional Policy, Transport and Tourism</p> <p>XIII. CULT Committee on Culture, Youth, Education, the Media and Sport</p> <p>XIV. DEVE Committee on Development and Cooperation</p> <p>XV. AFCO Committee on Constitutional Affairs</p> <p>XVI. FEMM Committee on Women's Rights and Equal Opportunities</p> <p>XVII. PETI Committee on Petitions</p>

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## PROCEDURAL PAGE

At the sitting of 12 January 1999 Parliament delivered its opinion at first reading on the proposal for a European Parliament and Council Directive on speedometers for two- or three-wheel motor vehicles and amending Council Directive 92/61/EEC on the type-approval of two- or three-wheel motor vehicles.

At the sitting of 23 July 1999 the President of Parliament announced that the common position had been received and referred to the Committee on Legal Affairs and the Internal Market.

The committee appointed Mr Ferri rapporteur at its meeting of 27 and 28 July 1999.

It considered the common position and the draft recommendation for second reading at its meetings of 23 September 1999 and 12 October 1999.

At the latter meeting it adopted the draft legislative resolution unanimously.

The following were present for the vote: Palacio Vallelersundi, chairman; Rothley, first vice-chairman; Beysen, third vice-chairman; Ferri, rapporteur; Berger, Cederschiöld, Fourtou, Gebhardt, Grossetete, Harbour, Hautala, Koukiadis, Lechner, Lehne, MacCormick, Manders, Miller, Moraes, Niebler, Thors, Uca, Wallis, Wuermeling and Zacharakis.

The recommendation for second reading was tabled on 14 October 1999.

The deadline for tabling amendments to the position will be indicated in the draft agenda for the relevant part-session.

## DRAFT LEGISLATIVE RESOLUTION

**European Parliament legislative resolution on the Council common position with a view to the adoption of the European Parliament and Council Directive on speedometers for two- or three-wheel motor vehicles and amending Council Directive 92/61/EEC on the type-approval of two- or three-wheel motor vehicles (6884/1/1999 - C5-0029/1999 - 1998/0163(COD))**

**(Codecision procedure: second reading)**

The European Parliament,

- having regard to the common position of the Council, (6884/1/1999 - C5-0029/1999),
- having regard to its position at first reading<sup>1</sup> on the Commission proposal to Parliament and the Council, COM(1998)0285<sup>2</sup>,
- having regard to Article 251(2) of the EC Treaty,
- having regard to Rule 80 of its Rules of Procedure,
- having regard to the recommendation for second reading of the Committee on Legal Affairs and the Internal Market (A5-0029/1999),

1. Amends the common position as follows;
2. Instructs its President to forward its position to the Council and Commission.

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<sup>1</sup> OJ C 104, 14.4.1999, p.19.

<sup>2</sup> OJ C 212, 8.7.1998, p.7.

(Amendment 1)  
Recital (-1a) (new)

Whereas road safety is a fundamental Community objective which requires speed to be monitored and controlled by means of a speedometer, with a view to raising awareness, particularly among young people, of the need for proper road use;

(Amendment 2)  
Recital (-1b) (new)

Whereas the technical legislation on road safety should be adopted in a cohesive fashion, in the form of ‘packages’ of directives, so as to raise public awareness of the European Union’s contribution to enhancing road safety;

(Amendment 3)  
Recital 6a (new)

Whereas the Member States of the Union must negotiate as soon as possible an amendment to Regulation No 39 of the United Nations Economic Commission for Europe to align it with the provisions of this Directive;

(Amendment 4)  
Article 3, subparagraph 1

In accordance with Article 11 of Directive 92/61/EEC, the equivalence between the requirements laid down in this Directive and those laid down in UN-ECE Regulation No 39, in the latest version adopted by the Community, is hereby acknowledged.

In accordance with Article 11 of Directive 92/61/EEC, the equivalence between the requirements laid down in this Directive and those laid down in UN-ECE Regulation No 39, in the latest version adopted by the Community, may hereby be acknowledged.

(Amendment 5)  
Article 4

The amendments that are essential in order to take account of the amendments to UNECE Regulation No 39 and to adapt the Annex to technical progress shall be adopted in accordance with the procedure referred to in Article 13 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<sup>3</sup>.

The amendments that are essential in order to take account of the amendments to UNECE Regulation No 39 and to adapt this Annex to technical progress shall be adopted in accordance with the procedure referred to in Article 13 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<sup>4</sup>.

In accordance with Decision 1999/468/EEC which repealed Decision 87/373/EEC, Article 13 of Directive 70/156/EEC is hereby amended as follows:

‘Article 13

Adaptation of the Annexes – advisory procedure

1. A Committee for Adaptation to Technical Progress, hereinafter called ‘the Committee’, is hereby set up; it shall consist of representatives of the Member States with a representative of the Commission as Chairman.

2. All the amendments necessary for adapting:

- the Annexes to this directive, or
- the provisions of the separate Directives, save as otherwise provided therein,

Shall be adopted in accordance with the procedure laid down in paragraph 3. This procedure shall also apply to the introduction of provisions on the type-approval of separate technical units into the separate Directives.

3(a) The Commission shall be assisted by an advisory committee composed of the representatives of the Member States and chaired by the representative of the Commission.

(b) The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time-limit which the chairman may lay down according to the urgency of the matter, if

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<sup>3</sup> OJ L 42, 23.2.1970, p. 1. Directive as last amended by Directive 98/91/EC (OJ L 11, 16.1.1999, p. 25).

<sup>4</sup> OJ L 42, 23.2.1970, p. 1. Directive as last amended by Directive 98/91/EC (OJ L 11, 16.1.1999, p. 25).

necessary by taking a vote.

(c) The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its opinion recorded in the minutes.

(d) The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which the opinion has been taken into account.

4. Should the European Parliament and the Council, acting on a proposal from the Commission, adopt a new separate Directive, they shall on the basis of that same proposal adopt appropriate amendments to the relevant Annexes to this Directive.

5. Should a separate Directive be amended under a 'commitology' procedure, appropriate amendments to the relevant Annexes to this Directive shall be adopted under the procedure referred to in this article.'

(Amendment 6)  
Article 6(4)

Member States shall apply the requirements set out in the first subparagraph of paragraph 1 as from 1 July 2001, except for mopeds, to which these requirements shall be applicable from 1 January 2002.

Member States shall apply the requirements set out in the first subparagraph of paragraph 1 as from 1 July 2001, except for mopeds, to which these requirements shall be applicable from 1 July 2002.

## **EXPLANATORY STATEMENT**

### **I. PROCEDURE**

Under the terms of the Treaty, the EP has a period of three months in which to adopt amendments by an absolute majority of its component members (i.e. at least 314 votes in favour). This three-month period has been extended by one month. The amendments must meet the admissibility criteria referred to in Rule 80 of the Rules of Procedure. Since the last reform of the Rules of Procedure, amendments to a common position may, inter alia, 'amend a part of the text of the common position which was not included in [...] the proposal submitted at first reading' (c) or 'take account of a new fact or legal situation which has arisen since the first reading' (d). The elections of 13 June 1999 may be deemed to be such a new fact.

In all other respects, the procedure to be followed is laid down in Article 251 of the EC Treaty.

### **II. BACKGROUND**

In its resolution of 12 January 1999, Parliament adopted the Commission proposal as it stood. With that proposal, the Commission responded to a request from the Benelux countries, which are major producers of speedometers. The proposal was also acceptable to moped and motorcycle manufacturers, given that it would obviate the need for them to produce some vehicles with speedometers and others without.

The proposal sought both to remove a barrier to freedom of movement within the internal market, in that it would give effect to the provisions of Regulation No 39 of the United Nations Economic Commission for Europe, and to make it easier for vehicles produced in the Community to gain access to third-country markets which are based on the same standard.

### **III. THE COMMON POSITION OF THE COUNCIL (C5-0029/1999 – 1998/0163(COD))**

#### **1. New provisions introduced by the Council**

As is stated in the Commission communication (SEC(99)1178, point 3.1) and in the statement of the Council's reasons (point 6), the Council has not made any substantive changes. The two amendments worthy of note are to be found in Article 3 (which acknowledges the equivalence between the requirements laid down in this Directive and those laid down in UN-ECE Regulation No 93, *in the latest version* adopted by the Community) and Article 6 (which defers transposition of the Directive in respect of mopeds to 1 January 2002, while the deadline set for other vehicles is 1 July 2001).

#### **2. Problem areas**

The main problem with the common position resides in its use of 'legislative delegation': the directive would delegate much of the responsibility for future amendments to the 'quasi-legislation' of the United Nations Economic Commission for Europe and a 'commitology' procedure, which are two closely-linked mechanisms.

### The 'quasi-legislation' of the United Nations Economic Commission for Europe

The Economic Commission for Europe is a UN body ( ) which deals mainly with issues of economic harmonisation. All of the 57 members of the ECE are treated on an equal footing. A few agreements have been concluded within this framework, including the 'Agreement concerning the uniform conditions of approval and reciprocal recognition of approval for motor vehicle equipment and parts of 20 March 1958' (subsequently revised). The European Community acceded to that revised agreement by adopting Council Decision 97/836/EC of 27 November 1997 ( ). 104 technical regulations have been adopted with a view to implementing that agreement, including Regulation No 39 ('Uniform provisions concerning the approval of vehicles with regard to the speedometer equipment, including its installation').

Regulation No 39 has been amended twice. Sweden has proposed a further amendment which will be discussed for the first time in October 1999 by the GRSG (Working Party on General Safety Provision); following approval by the GRSG, it will be discussed by Working Party 29, probably not before November 2000. Lastly, the UN Secretary-General will forward the agreed text to the parties to Regulation No 39. The text will be deemed adopted if not more than one third of the parties oppose it. This last stage of the procedure normally lasts for a further nine to twelve months.

Article 3 of the common position *obliges* the Council, acting by a qualified majority on a proposal from the Commission, to **acknowledge the equivalence** between the requirements laid down in this Directive and those laid down in UN-ECE Regulation No 39, in the latest version adopted by the Community.

Under Article 4 of the common position 'the **amendments** that are essential in order to take account of the amendments to UN-ECE Regulation No 39 and to adapt the Annex to technical progress shall be adopted in accordance with the procedure referred to in Article 13 of Council Directive 70/156/EEC'.

The issues of the UN-ECE quasi-legislation and commitology are therefore inextricably linked.

### Commitology

On the basis of the provisions of Decision 87/373/EEC, repealed by Decision 1999/468/EC, Article 13 of Directive 70/156/EEC on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers (as amended inter alia by Directives 92/53/EEC and 98/14/EC) provides for the following 'type III(a)' commitology procedure:

#### 'Article 13

##### Adaptation of the Annexes – advisory procedure

1. A Committee for Adaptation to Technical Progress hereinafter called 'the Committee', is hereby set up; it shall consist of representatives of the Member States with a representative of the Commission as Chairman.
2. All the amendments necessary for adapting the Annexes to this directive, or the provisions of the separate Directives, save as otherwise provided therein, shall be adopted in accordance with the procedure laid down in paragraph 3. This procedure shall also apply to the introduction of provisions on the type-approval of separate technical units into the separate Directives.
3. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the Chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article

148(2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The Chairman shall not vote. The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee. If the measures envisaged are not in accordance with the opinion of the Committee or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority. If, within three months of the proposal being submitted to it, the Council has not acted, the proposed measures shall be adopted by the Commission.

4. Should the Council, acting on a proposal from the Commission, adopt a new separate Directive, it shall on the basis of that same proposal adopt appropriate amendments to the relevant Annexes to this Directive.

5. Should the Commission adopt amendments to a separate Directive, it shall on the basis of the same amendments adopt appropriate amendments to the relevant Annexes to this Directive.'

However, the new 'commitology' Decision (1999/468/EC) has got rid of the type III(a) procedure referred to above and provides solely for an advisory procedure, a new management procedure and a new regulatory procedure.

The fact that Decision 1999/468/EC repealed Decision 83/373/EEC makes it impossible from a legal standpoint to use the instruments and mechanisms laid down in the latter, even indirectly.

Furthermore, is it really appropriate for Parliament to delegate the degree of responsibility for amending this Directive that is provided for in the dual 'international quasi-legislation/commitology' mechanism?

#### **IV. CONCLUSIONS**

Your rapporteur proposes that the deadline for transposition of the Directive in respect of mopeds alone be postponed by a further six months, from 1 January 2002 to 1 July 2002, so as to give manufacturers sufficient time in which to design and develop new specific equipment for this type of vehicle.

Given the complexity of the legislative problems raised, the commitology procedure laid down in Article 13 of Directive 70/156/EEC must be replaced. It is proposed that the procedure laid down in Article 3 of Decision 1999/468/EC ('advisory committee') be used for this purpose.

Under this procedure the European Commission would retain responsibility for the implementing measures adopted, and the Member States would be able to express their opinions.

It would be going too far to put forward the idea of a regulatory committee once again, given that even the new version of the relevant provisions gives the Member States wide-ranging powers in respect of the adoption of implementing measures.