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## **REPORT**

on the Commission communication 'Pedestrian protection: Commitment by the European automobile industry'  
(COM(2001) 389 – C5-0537/2001 – 2001/2216(COS))

Committee on Regional Policy, Transport and Tourism

Rapporteur: Ewa Hedkvist Petersen



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## PROCEDURAL PAGE

By letter of 18 July 2001, the Commission forwarded to Parliament a communication 'Pedestrian protection: Commitment by the European automobile industry' (COM(2001) 389 – 2001/2216(COS)).

At the sitting of 12 November 2001 the President of Parliament announced that she had referred the communication to the Committee on Regional Policy, Transport and Tourism as the committee responsible and the Committee on Economic and Monetary Affairs, the Committee on Industry, External Trade, Research and Energy and the Committee on the Environment, Public Health and Consumer Policy for their opinions (C5-0537/2001).

At the sitting of 13 December 2001 the President of Parliament announced that she had also referred the communication to the Committee on Legal Affairs and the Internal Market.

The Committee on Regional Policy, Transport and Tourism appointed Ewa Hedkvist Petersen rapporteur at its meeting of 20 November 2001.

It considered the Commission communication and the draft report at its meetings of 22 January 2002, 19 March 2002, 17 and 18 April 2002.

At the last meeting it adopted the motion for a resolution by 46 votes to 4.

The following were present for the vote: Luciano Caveri, chairman; Rijk van Dam, Gilles Savary and Helmuth Markov, vice-chairmen; Ewa Hedkvist Petersen, rapporteur; Emmanouil Bakopoulos, Carlos Bautista Ojeda (for Josu Ortuondo Larrea), Philip Charles Bradbourn, Luigi Cocilovo, Danielle Darras, Christine de Veyrac, Garrelt Duin, Giovanni Claudio Fava, Markus Ferber (for Rolf Berend), Francesco Fiori (for José Javier Pomés Ruiz pursuant to Rule 153(2)), Jacqueline Foster, Mathieu J.H. Grosch, Malcolm Harbour (for Giorgio Lisi pursuant to Rule 153(2)), Konstantinos Hatzidakis, Juan de Dios Izquierdo Collado, Georg Jarzembowski, Dieter-Lebrecht Koch, Brigitte Langenhagen (for Margie Sudre), Sérgio Marques, Emmanouil Mastorakis, Erik Meijer, Rosa Miguélez Ramos, Bill Miller (for John Hume), Francesco Musotto, James Nicholson, Camilo Nogueira Román, Karla M.H. Peijs, Wilhelm Ernst Piecyk, Samuli Pohjamo, Bernard Poignant, Alonso José Puerta, Reinhard Rack, Carlos Ripoll i Martínez Bedoya, José Ignacio Salafranca Sánchez-Neyra (for Felipe Camisón Asensio), Isidoro Sánchez García, Marieke Sanders-ten Holte (for Herman Vermeer), Ingo Schmitt, Brian Simpson, Renate Sommer, Dirk Sterckx, Ulrich Stockmann, Helena Torres Marques (for Michel J.M. Dary), Joaquim Vairinhos, Ari Vatanen and Mark Francis Watts.

The opinions of the Committee on Legal Affairs and the Internal Market, the Committee on Industry, External Trade, Research and Energy and the Committee on the Environment, Public Health and Consumer Policy are attached; the Committee on Economic and Monetary Affairs decided on 28 August 2001 not to deliver an opinion.

The report was tabled on 25 April 2002.

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

## MOTION FOR A RESOLUTION

### **European Parliament resolution on the Commission communication ‘Pedestrian protection: Commitment by the European automobile industry’ (COM(2001) 389 – C5-0537/2001 – 2001/2216(COS))**

*The European Parliament,*

- having regard to the Commission communication (COM(2001) 389 – C5-0537/2001),
  - having regard to Article 71, 95 and 153 of the Treaty,
  - having regard to Rule 47(1) of its Rules of Procedure,
  - having regard to its resolution of 29 November 2001 on the recent White Paper of the Commission on European Governance,<sup>1</sup>
  - having regard to its resolution of 18 January 2001 on the Commission communication to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on the ‘Priorities in EU road safety - Progress report and ranking of actions’<sup>2</sup>
  - having regard to the report of the Committee on Regional Policy, Transport and Tourism and the opinions of the Committee on Legal Affairs and the Internal Market, the Committee on Industry, External Trade, Research and Energy and the Committee on the Environment, Public Health and Consumer Policy (A5-0154/2000),
- A. whereas the European Parliament considers that transport safety and especially the protection of vulnerable road users such as pedestrians and cyclists must continuously be improved in Europe,
- B. whereas the active safety measures proposed in the negotiated commitment can be welcomed and considered as representing the right approach,
- C. whereas there are doubts as to whether the implementation of measures proposed for the second phase of this commitment will actually take place, owing to a degree of ambiguity in the wording of the detailed agreements and to insufficiently concrete definitions; and whereas the simple conclusion of a negotiated commitment does not seem to be a convincing means which will necessarily contribute to reaching the proposed goal,
1. Welcomes the fact that pedestrian-friendly car fronts rank among the top priorities of the European Commission in its Communication on priorities in EU road safety - progress

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<sup>1</sup> Texts adopted, item 20.

<sup>2</sup> OJ C 262, 18.09.2001, p. 236.

report and ranking of actions<sup>1</sup>, and refers to the EP report on this issue<sup>2</sup>;

2. Recalls the 24 year long turbulent history of pedestrian-friendly car fronts to date, with EU and national funding of research in this field, the work of the EEVC and its different working groups, contradictory benefit studies by several national road safety institutes on one side and ACEA on the other, debates on tests methods, the presentation at a relatively early stage of cars which to a considerable extent already meet the EEVC criteria, the aborted attempts by the Commission to come forward with a legislative proposal and the subsequent promises in various communications to attempt again to propose a legislative act, the Euro-NCAP tests showing a generally rather poor performance for most cars;
3. Notes the breadth and scope of the research and development programme funded by the EU and Member States over 22 years carried out by the European Enhanced Vehicle-Safety Committee (EEVC), a consortium of several Member States (France, Germany, Italy, the Netherlands, Spain, Sweden and the United Kingdom) which focus on crash safety with the aid of working groups comprising governmental representatives and industrial experts who undertake research and development of test methods, tools and requirements;
4. Recognises that, whilst other active measures exist which potentially have an even more important role to play in improving pedestrian protection (for example, promoting safer driving and infrastructure measures), the EU has a clear and specific competence in establishing car design standards, in the context of the internal market;

#### **The proposed procedure: negotiated commitment**

5. Considers that negotiated commitments can be an extremely useful tool for the advancement of policy goals, where they reflect a genuine compromise between the different actors involved in the policy area concerned; in this context, is nonetheless concerned that the negotiated commitment proposed by the car industry does not seem to reflect such a compromise;
6. Considers that the voluntary agreement on the part of the automobile industry represents a first step towards improving road safety, but that the commitment needs to be made more concrete in a number of areas;

#### **a) opportunities for transparency and openness**

7. Believes that with the established legislative procedure both European institutions and interest groups representing, for example, consumers or other players in the market, had their word to say;

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<sup>1</sup> COM(2000) 125

<sup>2</sup> A5-381/2000

## **b) monitoring**

8. Stresses in this connection the importance of the technical conformity inspection which should be carried out by independent technical services on the basis of guidelines laid down jointly by and under the supervision of the Commission's Joint Research Centre; regards it as essential that the monitoring committee should include representatives of consumers' organisations, and that these should participate in the selection of independent technical experts and services,

## **the content**

9. Is concerned about the weakening of the requirements in the first phase of the implementation of the proposed commitment;
10. Agrees fully with the theoretical final goal of stage two, i.e. compliance with the four EEVC tests,
11. Agrees with the proposed equipping of all new vehicles with Anti-lock Brake Systems (ABS) in 2003 and Daytime Running Lights (DRL) in 2002; points out, however, that DRL in some southern European countries are forbidden, which means that it should be possible to switch them off if national legislation does not allow DRL;
12. Welcomes the ban on rigid bull bars on new cars which the European Parliament has criticised severely in recent years, but stresses that the equipping of cars with bull bars bought separately as an accessory can only be banned by way of legislation; consequently, invites the Commission to propose legislation banning rigid bull bars from after market equipment;
13. Takes the view that all measures regarding road safety should have an autonomous status and not be mixed up.

## **Institutional and legal aspects**

14. Therefore asks the Commission to come forward with a framework directive in which a clear, realistic time schedule is established concerning the intermediate and final goals to be reached as well as methods for monitoring assessment: considers that the long term goal, compliance with the four EEVC-tests, or other test methods which offer at least the same level of protection for pedestrians, should be reached by 2010;
15. Calls on the Commission to find ways of enabling the Member States to participate in an appropriate manner in the monitoring of the implementation of this framework directive; this can be achieved mainly by involving the national authorities responsible for the type approval of vehicles in the relevant control measures;
16. Considers that the EEVC should be regarded as the institution which is in the forefront of research in road safety world wide and particularly in the field of pedestrian protection;
17. Points out that EEVC and the Euro-NCap programme represent a dynamic process which can and must continue to develop in line with new technologies; calls on the Commission

to continue to monitor technological developments in this field and to keep the European Parliament fully informed;

18. Urges the Commission to monitor pedestrian casualties and report to the European Parliament on an annual basis;
19. Invites the Commission to take a close look at the possible problem of free riders, competitors or future competitors on the market who do not participate in the agreement.
20. Instructs its President to forward this resolution to the Council and Commission.



## EXPLANATORY STATEMENT

### **I. Introduction**

With this communication, the European Commission is consulting the European Council and the European Parliament on the appropriateness of a self-commitment by the European automobile industry aiming at improving the chances of surviving for pedestrians and cyclists in case of a collision with a car and containing several other so called "active safety" measures.

The commitment would be concluded between virtually all the car producers in Europe, represented by **ACEA**, the European Automobile Manufacturers Association, **JAMA**, the Japanese carmakers, and **KAMA**, the Korean Car producers Association and would replace a or even different EU-directives.

The proposed commitment would be null and void if one of the partners decided to stay on the sidelines. The Commission proposes as an additional security, a recommendation in which it is made clear that regulatory measures will be considered if the parties do not comply with the commitment.

The proposed instrument is new in the transport sector at EU-level. It is indeed an instrument, which will be used more often in the future and is already quite common in the EU-environment legislation, only grudgingly accepted by EP.

The rapporteur feels that thorough scrutiny is necessary because very fundamental values are at stake. This move must be seen against the larger background of the recent White Paper on European Governance which announces other forms than hard legislation one of which is voluntary agreements. This brings us also to the other critical question regarding the ordinary legislative procedures; are they too heavy, too time consuming, not flexible enough?

### **II. The content**

This commitment contains the following elements:

- 1) Phase A (= passive safety) measures concerning head impact on car front, front window and leg impact, based on recommendations of the Commission's Joint Research Centre. These measures will apply to all **new types of vehicles** from 1 July 2005, on 80% of **new vehicles** from July 2010 and on 100% of **all new vehicles** by 2012.
- 2) Phase B (also passive safety) measures are basically a stricter version of phase A measures.  
The targets have been set by the European Enhanced Safety Vehicle Committee. These measures should be applied as from 2010 on all new vehicle types and as from 2012 progressively on all new vehicles.

- 3) Active safety measures:
- prohibition of rigid bull bars (from 1-1-2002),
  - DRL (daytime running lights) within 2 years,
  - fitting of ABS to all new vehicles from 2003,
  - a number of electronic active safety measures (indicative list in the Commission Communication.

As it is the case for all voluntary agreements, they should not constitute a breach of existing competition law in the EU.

**Comments:**

- Several NGO's like ETSC, (European Transport Safety Council), the BEUC (consumers organisation) and ANEC, (the European Consumer Voice in Standardisation) are **very critical** on the Phase A measures because they reduce the numbers of tests which had been proposed in the beginning by EEVC from 4 to 2 (only a lower leg and head test), resulting in 75% fewer lives saved than what could be achieved by a legislative text.
- FEMA, the European Motorcyclist Association has some critics on the Daytime Running Lights because this would undermine the effect of the lights motorcyclists have already switched on when driving in daytime.
- On the phase 2 package of measures, it should be noted that it is **subject to a feasibility assessment** and that equivalent measures might be considered. This is a **fundamental weakness** of the agreement and gives no guarantee whatsoever as to the attaining of the final goals. The road to success could be a bumpy ride and we could end up 25 years after the first research started with half measures not corresponding at all to the level of research being done and to the necessity of bringing down the number of fatal casualties.
- The non-fitting of rigid bull bars is a commitment of a very relative value: bull bars will still be available as a separate accessory. For a real ban on bull bars a legislative act is necessary (modification of existing legislation).
- The fitment of ABS should be regarded as a very positive step and a general tendency to equip cars with it started already several years ago; however some experts think that drivers tend to rely on it to increase their speed.
- Daytime Running Lights: this obligation exists already in certain northern European countries where they are especially useful in the long periods of twilight. In continental Europe DRL are more in use on a voluntary basis but in some southern European countries DRL are banned, so automatic use is excluded and the possibility should remain to switch them off.

The representative organisations of vulnerable road users are opposed to the adoption of Daytime Running Lights for all vehicles as a requirement within the European Union and state there is no scientific evidence of their contribution to road safety. There is a common view among the European Cyclist Federation (ECF), the International Pedestrians Federation (FIP), the federation of European Motorcyclists Associations (FEMA) and the European Federation of Road Traffic Victims (FEVR) that Daytime

Running Lights for all vehicles reduce safety of pedestrians, cyclists and motorcyclists in reducing their conspicuity.

### **III. European Parliament's and rapporteur's position**

Transport safety is a matter enshrined in article 71 of the EU-Treaty and falls under the codecision procedure. This procedure gives the EP a real say in the matters where codecision is applied (art. 251). The EP has been struggling for many years to extend codecision to most subjects. Now when this has been achieved, a self-commitment is proposed, which means law making at a level which is inappropriate. Speed is the industry's important argument in favour of a voluntary agreement. But has a codecision procedure to take a long time? Industry has not been very enthusiastic to co-operate in the preparation of legislative action.

The European Parliament has been asking unsuccessfully for years for legislative proposals. Recently the European Commission came out with a White Paper on European Governance. In its resolution on this Paper, the European Parliament has clearly stated that it doesn't want to see self-commitments, co-regulation etc..., replace legislation and asks for a clear role for the EP in both the drafting and monitoring of these alternative forms of legislation.

The EP and the rapporteur are aware that with the prospect of the EU-enlargement and increasing complexity of society, there has to be found a way to speed up and simplify procedures. But this should happen without losing democratic accountability in important matters. Road safety is an important matter: it is about thousands of lives in the EU. The fundamentals of this policy need a robust legal basis.

The rapporteur is aware that the European Commission is currently working on a procedure for the drafting, conclusion and monitoring of voluntary agreements and refers to the environment policy where the Commission temporarily abstains from presenting such instruments, pending the elaboration of a general framework within which the role of the European Parliament has been defined clearly.

### **IV. The result: a well balanced compromise**

During the debates within RETT-committee two different views were taken by members:

1. One view in favour of legislation instead of the proposed commitment mainly because
  - a) Matters falling under codecision would be regulated by a commitment
  - b) The terms used in the Commitment's text ("equivalent measures, subject to feasibility studies" etc...) were considered to be a possible loophole for not complying with the proposed goals; this mistrust was also fed by a design conflict between the so-called phase 1 and phase 2.
2. The other view was in favour of the proposed agreement, mainly because:
  - a) A voluntary agreement or a negotiated commitment is considered in this case as a quicker and more flexible tool to achieve the proposed goal.

- b) The terms "equivalent measures, subject to feasibility studies etc ..." are looked upon as elements which take into account the rapid evolution of Research and Development, possibly making quickly obsolete current research and testing methods.

The resolution with its demand for a framework directive reflects a compromise between these two approaches. It calls for a "light" form of legislation, which should not go too far into details and with a built-in flexibility. The rapporteur believes that both European institutions and industry, on whose shoulders the difficult task rests of implementing legislation, can live with this compromise.

It is obvious that the European Commission will also have to play a very delicate role due to their right of initiative in the EU and that the EP will follow this matter very closely.

26 February 2002

## **OPINION OF THE COMMITTEE ON LEGAL AFFAIRS AND THE INTERNAL MARKET**

for the Committee on Regional Policy, Transport and Tourism

on the Communication from the Commission to the Council and the European Parliament on Pedestrian protection: Commitment by the European automobile industry (COM(2001) 389 – C5-0537/2001 – 2001/2216 (COS))

Draftsman: Malcolm Harbour

### **PROCEDURE**

The Committee on Legal Affairs and the Internal Market appointed Malcolm Harbour draftsman at its meeting of 27 November 2001.

The committee considered the draft opinion at its meetings of 24 January 2002 and 26 February 2002.

At the latter meeting it adopted the following conclusions by 13 votes to 12, with no abstentions.

The following were present for the vote: Giuseppe Gargani, chairman; Ioannis Koukiadis and Bill Miller, vice-chairmen; Malcolm Harbour, rapporteur; Paolo Bartolozzi, Janelly Fourtou, Evelyne Gebhardt, Fiorella Ghilardotti, José María Gil-Robles Gil-Delgado, Gerhard Hager, Heidi Anneli Hautala, The Lord Inglewood, Piia-Noora Kauppi, Kurt Lechner, Klaus-Heiner Lehne, Toine Manders, Manuel Medina Ortega, Elena Ornella Paciotti, Carlos Ripoll i Martínez Bedoya, Astrid Thors, Marianne L.P. Thyssen, Rijk van Dam, Diana Wallis, Matti Wuori and Stefano Zappalà.

## SHORT JUSTIFICATION

The Commission has submitted a communication to Parliament, setting out the details of a proposal to introduce a negotiated agreement with all car manufacturers active in the EU market, to improve the protection of pedestrians and other vulnerable road users.

Your draftsman considers that this agreement is of significant political importance, both to the development of Internal Market Policy and to the improvement of road safety across the European Union. It represents an innovative and wide-ranging approach to tackling an issue which has complex technical implications where action on a wide range of product improvements needs to proceed simultaneously.

The regulated approach taken by the Commission has a number of advantages by comparison with a traditional legislative approach:

- It offers the quickest route to introducing into the market place new generations of car designs incorporating more resilient front-end structures.
- It enshrines pedestrian protection as a key goal for car designers and provides a framework for introducing a second phase of pedestrian-friendly designs as new technologies and test methods evolve.
- It introduces parallel improvements in collision avoidance technologies (such as anti-lock brakes) and provides a framework that encourages new technologies to be accelerated into production (collision warning and night-time detection systems for example).
- The Commission proposal will be promoted as a global standard, as the EU is the first economic region to move ahead with pedestrian safety enhancements.

The issue of compliance and political scrutiny is also addressed:

- By locking compliance with the test standards into vehicle type-approval procedures, the car industry is totally committed to delivering the results. New cars that do not comply with the agreed standards will not be able to be sold.
- Under proposals prepared by the Parliament's ITRE Committee, the Commission will provide Parliament with an annual progress report on compliance within the framework of an overall report on motor vehicle regulation.
- As an insurance against the agreement's failing to deliver the expected benefits, the Commission will continue with the development of a formal legislative proposal.

Overall, your rapporteur recommends support for this proposal, and believes that it provides a good model for a non-legislative approach, bringing early benefits to consumers and enhancing the Single Market framework.

The points for a resolution, which the Committee on Regional Policy, Transport and Tourism are requested to adopt, focus on the Internal Market policy remit of the Committee.

## CONCLUSIONS

The Committee on Legal Affairs and the Internal Market calls on the Committee on Regional Policy, Transport and Tourism, as the committee responsible, to incorporate the following points in its motion for a resolution:

### Point 1

Welcomes the proposed agreement between the Commission and car manufacturers to enhance the safety of pedestrians and other vulnerable road users and notes the legal advice received by Parliament on the voluntary agreement negotiated with the car industry; further, welcomes voluntary agreements between public authorities and industrial sectors as a supplement to legislation, provided that the objectives have been set by the regulator in a transparent democratic process; finds that, in principle, agreements between stakeholders are valuable tools to achieve technical improvements and that it is inappropriate for the European Parliament to deal with details that are very technical;

### Point 2

Considers that this approach could set a good example of the application of Internal Market principles within a voluntary agreement that should incorporate emerging technology during the life of the agreement and address the need to take action across a range of complex technical areas;

### Point 3

Particularly commends the Commission and the car manufacturers for considering both passive safety measures (softer vehicle fronts) and active safety measures (collision avoidance technology) in the proposal; notes that in such a complex area, a non-legislative approach allows a much wider range of counter measures to be deployed than a traditional "vertical" directive, which can only address one issue;

### Point 4

Commends the Commission, and the car manufacturers, for concluding a linkage between agreement compliance and vehicle type-approval, noting that this provides some safeguards for consumers that the benefits could be delivered; stresses, however, Parliament's will for a legislative framework for road safety;

### Point 5

Confirms its expectation that, in line with proposals made by Parliament's Committee on Industry, External Trade, Research and Energy, the Commission will present an annual motor vehicle legislative report to Parliament that will include a comprehensive progress report on this voluntary agreement and expects that this report will monitor technical developments and, in particular, set out progress towards the more stringent standards envisaged for Phase 2 of the agreement;

#### Point 6

Agrees with the Commission's view that it should progress the development of a draft directive should this agreement prove to be unsuccessful in delivering the promised benefits, notes, however, that it is not in favour of highly complex, technical legislation, and agrees with the Commission's view that the delays involved in a legislative approach will not be of benefit to enhancing European road safety;

#### Point 7

Agrees with the Commission's view that the EU agreement should be promoted as a global design approach for motor vehicles and believes that this will provide a competitive advantage for European carmakers;



19 March 2002

## **OPINION OF THE COMMITTEE ON INDUSTRY, EXTERNAL TRADE, RESEARCH AND ENERGY**

for the Committee on Regional Policy, Transport and Tourism

on the Communication from the Commission to the Council and the European Parliament.  
Pedestrian protection: Commitment by the European automobile industry  
(COM(2001) 389 – C5-0537/2001 – 2001/2216 (COS))

Draftsman: Paul Rübzig

### **PROCEDURE**

The Committee on Industry, External Trade, Research and Energy appointed Paul Rübzig draftsman at its meeting of 22 November 2001.

It considered the draft opinion at its meetings of 19 February and 19 March 2002.

At the last meeting it adopted the following conclusions by 24 votes to 20.

The following were present for the vote: Peter Michael Mombaur, acting chairman; Yves Piétrasanta, and Jaime Valdivielso de Cué, vice-chairmen; Paul Rübzig, draftsman; Gordon J. Adam (for Luis Berenguer Fuster), Sir Robert Atkins, Freddy Blak (for Konstantinos Alyssandrakis), Guido Bodrato, David Robert Bowe (for Massimo Carraro), Gérard Caudron, Giles Bryan Chichester, Nicholas Clegg, Dorette Corbey (for Harlem Désir), Willy C.E.H. De Clercq, Christos Folias (for Concepció Ferrer), Norbert Glante, Michel Hansenne, Malcolm Harbour (for Bashir Khanbhai), Roger Helmer (for Godelieve Quisthoudt-Rowohl), Hans Karlsson, Dimitrios Koulourianos (for Fausto Bertinotti), Helmut Kuhne (for Rolf Linkohr), Bernd Lange (for Erika Mann), Werner Langen, Peter Liese (for Christian Foldberg Rovsing), Caroline Lucas, Hans-Peter Martin (for Imelda Mary Read), Marjo Matikainen-Kallström, Eryl Margaret McNally, Angelika Niebler, Giuseppe Nisticò (for Umberto Scapagnini), Hervé Novelli (for Colette Flesch, pursuant to Rule 153(2)), Reino Paasilinna, Paolo Pastorelli, Elly Plooij-van Gorsel, John Purvis, Bernhard Rapkay (for Mechtild Rothe), Daniela Raschhofer, Esko Olavi Seppänen, Gary Titley, W.G. van Velzen, Alejo Vidal-Quadras Roca, Myrsini Zorba and Olga Zrihen Zaari.

## SHORT JUSTIFICATION

Increasing personal safety in daily life, and in particular in relation to the use of automobiles, is a policy objective on which all agree. While part of the necessary effort is based on educating people, working conditions and penalties for dangerous behaviour, proper design of vehicles and appropriate equipment are an important part of it as well, both to prevent accidents and to limit their consequences.

As the corresponding requirements relate to equipment sold throughout the Community, harmonisation of technical requirements is an absolute necessity with regard to the proper functioning of the Single Market.

However, the Parliament has repeatedly in the past expressed its concern at the numerous proposals for Directives listing in every single detail technical aspects far beyond possible scrutiny at political level, the implementation of which through the legislative procedure and national implementation takes several years, and called for more flexible and lightweight regulation.

The communication from the Commission is an unusual document, which provides an answer to these concerns from our Institution: instead of designing a detailed text as a proposal for a Directive, as has been the case in the past, the Commission has fostered industry self-regulation.

This pro-active behaviour has led the three organisations representing the automobile industry in Europe, in a process of active negotiation with the Commission, to draft a set of standards that they commit themselves to implement within a given timetable, with a continuous assessment by the Commission assisted by independent experts.

The content of this commitment covers four different aspects, namely:

- The introduction of pedestrian-friendly car fronts, in a two-phase approach, by mandating performance oriented tests, aiming at the reduction of pedestrian casualties. This ground-breaking approach is unique in the world. The tests mandated in phase 1 for all new car types as from 2005 include test tools and criteria, validated by the JRC; test tools and criteria for phase 2 (new cars as from 2010) will be subject to interim evaluation in 2004, in order to adapt them taking into account further development in the international research and standardisation bodies.
- The equipment of all new vehicles with ABS anti-skid equipment
- The installation of daytime running lights
- The suppression of bull bars being installed on vehicles or sold by manufacturers (later fitting would remain possible, but only from third-party suppliers).

If considered satisfactory, the commitment could be implemented within a few years, and allow flexible evolution. The use of "soft law" in this field does not, however, in any way deprive the Commission of its right of proposing a formal legislative text. This would be the case in particular, should the implementation of the agreed commitment not prove satisfactory.

The Commission has also committed itself not to endorse the commitment and come forward with a legislative proposal if the legislative authority is not satisfied with the content of the commitment. Under these circumstances, we can consider that the prerogatives of the Parliament are respected, while the right of initiative stays with the Commission, as the EC Treaty states.

Our Committee sees this novel approach as a test. Its proper implementation, monitoring and

evolution, but above all the effectiveness of its results in the field, i.e. a substantial reduction of the death and injuries toll of road accidents in the coming years, are conditions for more such initiatives in the future.

## CONCLUSIONS

The Committee on Industry, External Trade, Research and Energy calls on the Committee on Regional Policy, Transport and Tourism, as the committee responsible, to incorporate the following points in its motion for a resolution:

1. Recognises that, in view of the unacceptably high annual total of 8,400 deaths of pedestrians and cyclists across the EU and the fact that the road death risks faced by these users are 8 to 9 times higher than faced by car occupants, concerted action is needed to improve vulnerable road user safety particularly where the EU has exclusive responsibilities to act such as through EU Whole Vehicle Type-Approval legislation;
2. Reminds that the Parliament has repeatedly supported the emergence of uniform industry-based standards and advocated their flexibility and responsiveness to technical evolution;
3. Recalls that legislation on safer car fronts was one of the six cost-effective road safety priority measures identified by the European Commission in its road safety communication in March 2000, which was supported by the European Parliament in January 2001 and by the Council in June 2001;
4. Recognises that, provided the conditions stipulated by the European Parliament are met, it will be possible for measures to improve pedestrian safety to be introduced and carried into effect on the roads more quickly by means of the voluntary agreement than by legislation alone;
5. Considers that the voluntary agreement by the motor industry is at present the most appropriate mechanism to allow fast incorporation of new research findings and technological advances in this investment-intensive and highly complex industry;
6. Supports the Commission's decision to back an industry commitment as a satisfactory means to increase pedestrian safety after having carefully weighed this approach in comparison with a formal regulatory approach; a legislative approach would involve delays which would not help improve road safety in Europe;
7. Recognises that the voluntary agreement does not solely focus on a specific crash test, but introduces a broader package of different measures to improve active and passive safety;
8. Notes the breadth and scope of the research and development programme funded by the EU and Member States over 22 years and carried out by the European Enhanced Vehicle-Safety Committee (EEVC), a consortium of several Member States (France, Germany, Italy, the Netherlands, Spain, Sweden and the United Kingdom) which focus on crash safety with the aid of working groups comprising governmental representatives and industrial experts who undertake research and development of test methods, tools and requirements;
9. Regrets that the agreement fails to deliver the high level of protection required in Article 95 (3) of the Treaty, having failed to implement voluntarily and with certainty the state of the art

tests, which were developed and scientifically validated by the European Enhanced Vehicle Safety Committee (EEVC) over a 22-year research programme funded by the EU and the Member States, in favour of fewer and weaker tests which offer far less protection than even best practice in pedestrian protection provision achieved on the road today;

10. Considers that the passive safety measures provided for in the agreement, and in particular the prohibition of rigid bull bars for new vehicles, are inadequate, and demands a general and immediate prohibition of all such cow-catchers for cars and light commercial vehicles, which should include the motor vehicle accessory trade;

11. Considers that the active safety measures proposed in the voluntary agreement are not ambitious enough; notes that the introduction across the board of ABS by 2004 is no great challenge, given the existing high level of implementation in the Member States; notes the lack of more ambitious proposals, such as the comprehensive introduction of ESP by 2003 and significantly more exacting commitments to a package of active safety measures including electronic devices to help avoid accidents such as systems to maintain a set distance from preceding vehicles, optical obstacle detection systems and speed-abatement systems, and considers that the best way of protecting pedestrians is by avoiding accidents;

12. Is concerned that, in addition to offering a low level of protection, Phase I of the voluntary agreement does not offer a natural first step towards implementing state of the art EEVC pedestrian tests and could guide design in a different and less safe direction;

13. Understands that the European Car Industry Association (ACEA) informed representatives of Member States and other European NGOs at the 100th meeting of DG Enterprise's advisory Motor Vehicle Working Group on 28 March 2001 that it could implement EEVC tests for new designs in 2010;

14. Recalls that this decision is in line with the principle of the right of initiative of the Commission, and that it is subject to continuing assessment (i.e. not only at the deadlines set in the commitment) by a Monitoring Committee on the basis of the findings of independent bodies that a regulatory approach is not needed to achieve its objectives. Stresses in this context the importance of the technical compliance verification that should be carried out by independent technical services, on the basis of guidelines established jointly with the Commission Joint Research Centre and under its supervision. The Commission remains able at any moment to propose binding legislation should the commitment not prove successful;

15. Calls on the Commission to issue clear statements and develop strategies in case the industry as a whole, or individual manufacturers, fail to comply with the voluntary agreement;

16. Calls for the implementation of the voluntary agreement to be monitored by independent institutions and for the requisite data to be collected by authorised bodies, and calls on the Commission to propose the necessary rules at once;

17. Criticises the fact that the European Parliament was not involved in negotiating the voluntary agreement and calls on the Commission to propose clear rules for the appropriate involvement of the European Parliament in future negotiations;

18. Urges the Commission, before endorsing the voluntary agreement negotiated with the car industry, to specify the arrangements intended to ensure the European Parliament participates fully in monitoring and periodically assessing the undertakings made by the manufacturers; stresses, moreover, the urgent need for an interinstitutional agreement on co-regulation which would allow the European Parliament to exercise its own responsibilities as co-legislator with regard to the selection, form and implementation of co-regulatory measures proposed by the Commission;

19. Calls on the Commission to submit an annual report on the automobile industry, including a report on the voluntary agreement and taking into account the technical progress made in this constantly changing sector;

20. Insists that, when the voluntary agreement is reviewed, the European Parliament must be adequately involved;

26 February 2002

## **OPINION OF THE COMMITTEE ON THE ENVIRONMENT, PUBLIC HEALTH AND CONSUMER POLICY**

for the Committee on Regional Policy, Transport and Tourism

on the Communication from the Commission to the Council and the European Parliament on Pedestrian Protection: Commitment by the European Automobile Industry (COM(2001) 389 – C5-0537/2001 – 2001/2216 (COS))

Draftsman: Ria G.H.C. Oomen-Ruijten

### **PROCEDURE**

The Committee on the Environment, Public Health and Consumer Policy appointed Ria G.H.C. Oomen-Ruijten draftsman at its meeting of 13 September 2001.

It considered the draft opinion at its meetings of 23 January 2002 and 19 February 2002.

At the latter meeting it adopted the following conclusions unanimously.

The following were present for the vote: Caroline F. Jackson, chairman; Mauro Nobilia, Alexander de Roo and Anneli Hulthén, vice-chairmen; Ria G.H.C. Oomen-Ruijten, draftsman; and Per-Arne Arvidsson, Hans Blokland, John Bowis, Martin Callanan, Dorette Corbey, Jillian Evans (for Patricia McKenna), Karl-Heinz Florenz, Pernille Frahm, Cristina García-Orcóyen Tormo, Laura González Álvarez, Robert Goodwill, Koldo Gorostiaga Atxalandabaso (for Hans Kronberger), Françoise Grossetête, Heidi Anneli Hautala (for Hiltrud Breyer), Marie Anne Isler Béguin, Hedwig Keppelhoff-Wiechert (for María del Pilar Ayuso González), Christa Kläß, Eija-Riitta Anneli Korhola, Bernd Lange, Giorgio Lisi (for Raffaele Costa), Jules Maaten, Minerva Melpomeni Malliori, Erik Meijer (for Mihail Papayannakis), Jorge Moreira da Silva, Emilia Franziska Müller, Rosemarie Müller, Riitta Myller, Giuseppe Nisticò, Marit Paulsen, Dagmar Roth-Behrendt, Guido Sacconi, Giacomo Santini (for Cristina Gutiérrez Cortines), Inger Schörling, Jonas Sjöstedt, Renate Sommer (for Peter Liese), Catherine Stihler, Astrid Thors, Antonios Trakatellis, Kathleen Van Brempt and Phillip Whitehead.

## SHORT JUSTIFICATION

Voluntary agreements between public authorities and industries are, without doubt, the best, quickest and most flexible way of achieving specific goals. In its resolution<sup>1</sup>, adopted in 1997, on the Commission communication on environmental agreements (COM (96) 0561), the European Parliament recognises the advantages of such agreements. Your draftsman fully supports this point of view.

The voluntary agreement on pedestrian protection is of particular importance, if we consider that around 8500 pedestrians and cyclists die each year on EU roads, and that over 180 000 are seriously injured. More generally, road accidents remain the most common cause of death amongst all EU citizens under the age of 45.

There is no doubt that the EU has a particular responsibility to adopt the best possible measures in order to drastically reduce, not only the number of people involved in an accident, but also the severity of the injuries in the case of accidents. In the view of your draftsman, the voluntary agreement on pedestrian protection, in which only the European car industry is represented, and in which consumer organisations are not involved, does not fully meet this objective.

It is difficult to understand why the agreement seeks to implement security standards that are far below what could be achieved if the four EEVC tests, agreed in a 22-year EU research programme, were implemented more rapidly. By doing so, the EU will miss an opportunity to save about 2000 lives and avoid about 18 000 severe injuries annually. In economic terms, the cost of fully meeting the four tests is estimated at no more than 30 Euro per car, far below the economic and social cost of pedestrian and cyclist accidents. It is for these reasons that your draftsman wants the agreement to be reviewed.

Considering that, since 1996, the EEVC tests have been used by the European New Car Assessment Programme (EuroNCAP), the renegotiations should not take a long time. The fact that in 1985 the UK Transport Research Laboratory produced an experimental vehicle with pedestrian protection based on an existing design and that a Japanese car actually on the market today meets over 70% of the EuroNCAP, cries out for a short negotiation period, which should not extend beyond the end of 2002.

The experience of the EU front and side impact legislation shows that, despite earlier statements, the industry was able to produce cars that meet the standards of the new legislation within twelve months. This explains why your draftsman expects the Commission, as already announced, to work on a draft directive in parallel. This draft directive should be presented by the end of 2002, if the renegotiation of the voluntary agreement with the car industry proves to be unsuccessful.

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<sup>1</sup> OJ C 286, 22.9.1997

## CONCLUSIONS

The Committee on the Environment, Public Health and Consumer Policy calls on the Committee on Regional Policy, Transport and Tourism, as the committee responsible, to incorporate the following points in its motion for a resolution:

1. Urges the Commission not to accept this voluntary commitment, given its weak content, its lack of democratic and legal control, in particular with regard to determining and enforcing the objectives, and given the explicit requests by the European Parliament and Council for legislation on the matter;
2. Deplores the fact that the Commission, despite repeated requests, has still not submitted a proposal for a framework regulation on environmental agreements defining the criteria concerning conditions, monitoring arrangements and penalties;
3. Recalls that in its resolution of 29 November 2001<sup>1</sup> on the White Paper on European governance, the Parliament noted that ‘there are currently no interinstitutional agreements on co-regulation which guarantee Parliament effective exercise of its political role and responsibility, either with regard to the appropriate choice of legal instrument or with regard to the form and implementation of a proposed co-regulation’;
4. Stresses the urgent need for an interinstitutional agreement on co-regulation, and calls on the Commission to submit clear rules for appropriate involvement of the EP in future negotiations;
5. Welcomes in principle voluntary agreements between public authorities and industrial sectors provided that they are placed within a binding legal framework that gives the Council and European Parliament the right to participate and adopt objectives, ensures public access and participation and includes effective monitoring arrangements;
6. Insists that no new agreements should be concluded before the Commission's document on agreements between EU institutions has been presented and until a legal framework has been agreed which grants the European Parliament and the Council the right of involvement;
7. Calls on the Commission not to enter into or accept any voluntary agreement before adoption of the proposed framework legislation that might prejudice such framework legislation and calls on the Commission when drafting any voluntary agreement to insert a clause ensuring that the provisions of the framework regulation will also apply to any voluntary agreement;
8. Recalls that, in its resolution of 17 July 1997<sup>2</sup> on the Commission communication on environmental agreements, the European Parliament insisted on the fact that voluntary

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<sup>1</sup> Not yet published.

<sup>2</sup> OJ C 286, 22.9.1997



agreements are primarily open to the industrial sectors which are prepared to implement necessary measures to achieve rapidly the strictly formulated objective;

9. Recalls its request from 18 January 2001 in Paragraph 3a of its resolution<sup>1</sup> on the Commission communication on the 'Priorities in EU road safety' for a legislative proposal making the four EEVC tests mandatory;
10. Deeply regrets that the agreement does not contain any commitment to voluntarily implement the EEVC tests, which were developed over a 22-year research programme funded by the EU and the Member States; and calls on the Commission to meet the requirements of the EU Treaty, and secure the application of the four EEVC tests, so as to adopt the best standards for pedestrian protection;
11. Noting in particular the advice of the Parliament's Legal Service that the drafting, interpretation and application of this voluntary agreement, to which even the Commission is not a party as it is solely between the car manufacturers themselves, would escape any effective democratic or legal control, and considers that the voluntary commitment on pedestrian protection does not fulfil this requirement nor the conditions laid down in the Commission Communication on Environmental Agreements and falls far short of the best possible standard with a view to improving pedestrian protection;
12. Considers that, by signing this agreement, the Commission does not fulfil its obligations under Article 153 of the Treaty, which calls for a high level of consumer protection to be ensured, and under Article 95, paragraph 3, of the Treaty, which calls for a high level of protection in Single Market harmonisation;
13. Considers the argument that the voluntary commitment of the car industry would bring about protection more swiftly than legislation to be misleading, given the far lower level of protection to be achieved by the voluntary commitment compared to legislation that would make the four EEVC tests legally binding;
14. Considers that the very ambitious target fixed by the Commission, to reduce current user death by 50% by 2010, requires effective legislation;
15. Believes that this proposed agreement contains a number of serious flaws - lack of obligation on those parts of the industry that do not sign the agreement (so-called free-riders, competitors who opt for not participating in the agreement), no provision for sanctions or penalties; no details of the length of time covered by the agreement; no mechanism for revision of the agreement; vague systems of monitoring;
16. Notes that the provision in the agreement whereby after a feasibility assessment 'equivalent measures', of which there is no clear definition, could replace the EEVC tests in phase 2 means there is no guarantee that the EEVC tests will ever in fact be applied by this particular voluntary agreement;

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<sup>1</sup> OJ C 262, 18.9.2001

17. Recalls the Council's request to the Commission of 26 June 2000 to submit as quickly as possible legislative proposals for adopting a directive on the type-approval of vehicles with a forgiving front design in the event of a collision, for the most vulnerable road users, in particular children, pedestrians and cyclists;
18. Calls on the Commission to propose a draft European Parliament and Council directive on pedestrian protection from cars that should be presented by the end of 2002;
19. Considers that the full EEVC test methods should be introduced as soon as possible, and certainly no later than 2008;
20. Clear performance targets should be laid down to provide focus for industry effort, with the EuroNCAP process encouraging earlier take up, as it has done successfully with the front and side impact protection legislation in cars;
21. Calls on the Commission to examine and validate without delay possible alternatives to the EEVC crash test. These should include soft-faced bumpers, windscreen wipers with a predetermined breaking point, safe hinges, airbag buffer zones and above all intelligent bonnet design (electronic or mechanical). Once the assessment has been completed, the most appropriate requirements should be introduced into type-approval for new vehicles;
22. Considers that the passive safety measures foreseen by the agreement, in particular the prohibition of rigid bull bars on new vehicles, are inadequate and calls for a general ban on such bull bars on cars and light commercial vehicles, which also covers the accessory trade; but also points out that the equipping of cars with bull bars bought and then fitted separately as an accessory can only be, and should be, banned by legislation;
23. Invites the Commission to come forward with proposals to outlaw the sale and use of bull bars;
24. Considers that the active safety measures proposed in the voluntary agreement are not ambitious enough; the extensive introduction of ABS by 2004 is hardly a major challenge given the already high implementation rates in the Member States. The agreement lacks ambitious proposals, such as extensive introduction of EPS by 2003 and much more demanding requirements for an active safety package, including electronic accident prevention aids such as sensors to identify and maintain the distance between vehicles, optical obstacle detection and speed limiters. The best kind of pedestrian safety is accident prevention;
25. Calls on the Commission, in order to achieve more comprehensive car safety, to also include measures for the prevention of whiplash injuries in the proposal for a directive.