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*****I**

REPORT

on the proposal for a European Parliament and Council regulation relating to the protection of pedestrians and other vulnerable road users in the event of a collision with a motor vehicle and amending Directive 70/156/EEC (COM(2003) 67 – C5-0054/2003 – 2003/0033(COD))

Committee on Regional Policy, Transport and Tourism

Rapporteur: Herman Vermeer

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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PROCEDURAL PAGE

By letter of 20 February 2003 the Commission submitted to Parliament, pursuant to Article 251(2) and Article 95 of the EC Treaty, the proposal for a European Parliament and Council directive relating to the protection of pedestrians and other vulnerable road users in the event of a collision with a motor vehicle and amending Directive 70/156/EEC (COM(2003) 67 – 2003/0033 (COD)).

At the sitting of 10 March 2003 the President of Parliament announced that he had referred this proposal to the Committee on Regional Policy, Transport and Tourism as the committee responsible and 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 for their opinions (C5-0054/2003).

The Committee on Regional Policy, Transport and Tourism appointed Herman Vermeer rapporteur at its meeting of 19 March 2003.

The committee considered the Commission proposal and draft report at its meetings of 21 May and 11-12 June 2003.

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

The following were present for the vote: Luciano Caveri, chairman; Rijk van Dam and Helmuth Markov, vice-chairmen; Herman Vermeer, rapporteur; Emmanouil Bakopoulos, Carlos Bautista Ojeda (for Josu Ortuondo Larrea), Rolf Berend, Philip Charles Bradbourn, Luigi Cocilovo, Gerard Collins, Jan Dhaene, Alain Esclopé, Giovanni Claudio Fava, Markus Ferber (for Felipe Camisón Asensio), Jacqueline Foster, Jean-Claude Fruteau (for Danielle Darras), Mathieu J.H. Grosch, Konstantinos Hatzidakis, Ewa Hedkvist Petersen, Juan de Dios Izquierdo Collado, Georg Jarzembowski, Elisabeth Jeggle (for Christine de Veyrac), Dieter-Lebrecht Koch, Giorgio Lisi, Nelly Maes, Sérgio Marques, Emmanouil Mastorakis, Rosa Miguélez Ramos, Enrique Monsonís Domingo, Francesco Musotto Carlos, Ripoll y Martínez de Bedoya, Wilhelm Ernst Piecyk, Giovanni Pittella (for Garrelt Duin), Samuli Pohjamo, José Javier Pomés Ruiz, Agnes Schierhuber (for James Nicholson), Ingo Schmitt, Renate Sommer, Dirk Sterckx, Ulrich Stockmann, Margie Sudre, Hannes Swoboda (for John Hume), Joaquim Vairinhos, Mark Francis Watts and Brigitte Wenzel-Perillo (for Reinhard Rack).

The opinions of the Committee on Legal Affairs and the Internal Market and of the Committee on the Environment, Public Health and Consumer Policy are attached. The Committee on Industry, External Trade, Research and Energy decided on 22 May 2003 not to deliver an opinion.

The report was tabled on 16 June 2003.

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a European Parliament and Council directive relating to the protection of pedestrians and other vulnerable road users in the event of a collision with a motor vehicle and amending Directive 70/156/EEC (COM(2003) 67 – C5-0054/2003 – 2003/0033(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2003) 67¹),
 - having regard to Article 251(2) and Article 95 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C5-0054/2003),
 - having regard to Rule 67 of its Rules of Procedure,
 - 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 and the Committee on the Environment, Public Health and Consumer Policy (A5-0223/2003),
1. Approves the Commission proposal as amended;
 2. Asks for the matter to be referred to it again, should the Commission intend to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1 Title

Proposal for a Directive of the European Parliament and of the Council relating to the protection of pedestrians and other vulnerable road users in the event of a collision with a motor vehicle and amending Directive 70/156/EEC

Proposal for a Directive of the European Parliament and of the Council relating to the protection of pedestrians and other vulnerable road users ***before and*** in the event of a collision with a motor vehicle and amending Directive 70/156/EEC

Justification

If pedestrian protection is not a matter of choosing between active measures (collision prevention) and passive measures (reducing the effects of a collision), this should be made

¹ Not yet published in OJ.

clear in the title.

Amendment 2
Recital 1 a (new)

(1a) A package of passive and active measures for improving safety (avoidance of accidents and reduction of secondary effects by traffic calming, infrastructure improvements) for vulnerable road users, such as pedestrians, cyclists and motorcyclists is urgently needed in the framework of the forthcoming road safety action programme.

Justification

This directive has to be considered as a small step within a framework of measures for improving safety of vulnerable road users.

Amendment 3
Recital 3

(3) Pedestrian protection objectives can be achieved by active ***or*** passive safety measures; whereas the recommendations by the European Enhanced Vehicle-safety Committee (EEVC) of June 1999 are generally accepted in this area; whereas those recommendations propose performance requirements for the frontal structures of certain categories of motor vehicles to reduce their aggressiveness; whereas this Directive presents tests and limit values based on the EEVC recommendations.

(3) Pedestrian protection objectives can be achieved by ***a combination of*** active ***and*** passive safety measures; whereas the recommendations by the European Enhanced Vehicle-safety Committee (EEVC) of June 1999 are ***the subject of a wide consensus*** generally accepted in this area; whereas those recommendations propose performance requirements for the frontal structures of certain categories of motor vehicles to reduce their aggressiveness; whereas this Directive presents tests and limit values based on the EEVC recommendations.

Justification

Pedestrian protection cannot be viewed as a straight choice between active and passive safety measures. A truly effective approach has to involve a combination of both, as already

indicated by the negotiated commitment.

Years of research within the EEVC have produced a test method which is regarded by the vast majority of those concerned as the one best able to identify weaknesses in vehicles in relation to pedestrian protection.

Amendment 4
Recital 3 a (new)

(3a) The Commission should examine the feasibility of extending the scope of this Directive to vehicles with a total permissible mass of up to 3.5 tonnes, and report its findings to the European Parliament and to the Council.

Amendment 5
Recital 3 b (new)

(3b) This Directive should be considered as one element of a broader package of measures, to be undertaken by the Community, the industry and the relevant authorities of Member States, on the basis of exchanges in best practice, in order to address pre-crash (active), in-crash (passive), and post-crash safety of pedestrian and other vulnerable road users, with respect to road users, vehicles and infrastructure

Amendment 6
Recital 4

(4) In view of the speed of technological development in this area, alternative measures of at least equivalent ***effect*** to the requirements of this Directive, ***including active safety measures***, may be proposed by the industry and shall be assessed following a feasibility study by 1 July 2004; the introduction of alternative measures with at least ***equal protective effects*** would require amending this Directive.

(4) In view of the speed of technological development in this area, alternative measures of at least equivalent ***actual effectiveness*** to the requirements of this Directive - ***either passive or a combination of active and passive measures*** - may be proposed by the industry and shall be assessed following a feasibility study ***carried out by independent experts*** by 1 July 2004; the introduction of alternative measures with at least ***equivalent actual***

effectiveness would require *adapting* or amending this Directive.

Justification

See justification for amendment 3 and 7.

Amendment 7
Recital 5 a (new)

(5a) The rapidly advancing technology in active safety means that collision mitigation and avoidance systems could provide major safety benefits; for example in reducing collision speed and adjusting impact direction; development of these technologies should be encouraged by this proposal;

Justification

Self-explanatory.

Amendment 8
Article 5, paragraph 1

1. The Commission, based on relevant information communicated by the approval authorities and interested parties as well as on independent studies, shall monitor the progress made by the industry in the area of pedestrian protection, and shall carry out, by 1 July 2004, a feasibility assessment concerning the provisions in Annex I, section 3.2. and in particular ***other*** measures which ***are*** at least equivalent (***at least equal protective effects***).

1. The Commission, based on relevant information communicated by the approval authorities and interested parties as well as on independent studies, shall monitor the progress made by the industry in the area of pedestrian protection, and shall carry out, by 1 July 2004, ***an independent*** feasibility assessment concerning the provisions in Annex I, section 3.2. and in particular ***alternative*** measures – ***either passive or a combination of active and passive measures*** - which ***have*** at least equivalent ***actual effectiveness***. ***The feasibility study shall be based, inter alia, on practical tests and independent scientific studies.***

Justification

It seems desirable to allow greater flexibility to adapt the directive to future technical progress in the field, by maintaining the option to meet the goals of the directive via a combination of passive and active measures - provided that these offer at least equal protective effects. This amendment is the result of a largely accepted compromise within the RETT Committee.

Amendment 9

Article 5, paragraph 1 a (new)

1a. If, as a result of the feasibility assessment referred to in paragraph 1, it is deemed necessary to adapt the provisions of Annex I, section 3.2, to include a combination of passive and active measures which provide at least equal protective effects to the existing provisions of Annex I, section 3.2, the Commission shall submit a proposal to amend this Directive accordingly, to be agreed by the European Parliament and the Council.

Justification

With reference to the amendments proposed to recital 4 and Article 5(1): In allowing greater flexibility to adapt the Directive's provisions to technical progress (by allowing the goals to be achieved via a combination of active and passive measures), there is a trade-off to be made in giving the Parliament greater scrutiny over such adaptations.

It is conceivable that an alternative set of test methods, or other passive measures (pop-up bonnets, external airbags etc.) may emerge before the implementation of Phase 2 of the directive. Provided that it can be assured that these alternative measures offer at least equivalent protective effects to EEVC, their incorporation into the directive could be achieved much more quickly by mandating the Committee for Adaptation to Technical Progress to undertake the task.

The introduction of active measures to meet the requirements of the directive is a much more politically sensitive undertaking. As such, the incorporation of alternative measures consisting of a combination of active and passive measures must be made subject to a full codecision procedure involving Parliament and Council.

Amendment 10
Article 5, paragraph 1 b (new)

1b. As long as adaptation of this Directive is restricted to the introduction of alternative passive measures which provide at least equal protective effects to the existing provisions of Annex I, section 3.2, such adaptation may be carried out by the Committee for Adaptation to Technical Progress, in accordance with the procedure laid down in Article 13 of Directive 70/156/EEC.

Justification

With reference to the amendments proposed to recital 4 and Article 5(1): In allowing greater flexibility to adapt the Directive's provisions to technical progress (by allowing the goals to be achieved via a combination of active and passive measures), there is a trade-off to be made in giving the Parliament greater scrutiny over such adaptations.

It is conceivable that an alternative set of test methods, or other passive measures (pop-up bonnets, external airbags etc.) may emerge before the implementation of Phase 2 of the directive. Provided that it can be assured that these alternative measures offer at least equivalent protective effects to EEVC, their incorporation into the directive could be achieved much more quickly by mandating the Committee for Adaptation to Technical Progress to undertake the task.

The introduction of active measures to meet the requirements of the directive is a much more politically sensitive undertaking. As such, the incorporation of alternative measures consisting of a combination of active and passive measures must be made subject to a full codecision procedure involving Parliament and Council.

Amendment 11
Article 5 (2)

2. The Commission shall report ***on a regular basis*** to the Council and the European Parliament on the results of the monitoring referred to in paragraph 1.

2. The Commission shall report ***before 1 April 2006, and every two years thereafter***, to the Council and the European Parliament on the results of the monitoring referred to in paragraph 1.

Justification

The reporting requirements need to be clarified.

EXPLANATORY STATEMENT

I. Introduction

In 2001 the European Commission had concluded negotiations with associations representing the European, Japanese and Korean automobile manufacturers (ACEA, JAMA and KAMA), on a voluntary agreement to the following effect:

- a) Improvements to the frontal structures of passenger and delivery vehicles so as to ensure that in the event of collisions with pedestrians at a speed below 40 km per hour, child and adult victims would in most cases survive the accident or suffer significantly reduced injuries;
- b) All new motor vehicles to be fitted with Anti-lock Brake Systems (ABS) as of July 2004;
- c) All new motor vehicles to be fitted with DRL (Daylight Running Lights);
- d) Rigid bull bars to be banned on all new motor vehicles, and no longer to be sold separately as accessories;
- e) Additional ICT (information and communication) elements to be progressively introduced in improving active safety.

The so-called 'soft law-making' instrument was submitted to the European Parliament for its approval before coming into force.

The Council (Internal Market) stated its position in its conclusions of 26 November 2001, and called finally for legislation:

EMPHASISES, in conclusion, that it still considers it important to adopt binding directives for all new road safety and environmental protection requirements and that the voluntary commitment cannot be introduced as a process that would discharge the political authorities from their responsibilities vis-à-vis public opinion.¹

Parliament stated its position in the report by Mrs Ewa Hedkvist Petersen, adopted on 13 July 2002 by 261 votes to 16, with 17 abstentions². Parliament there called for legislation in the form of a framework directive laying down a time schedule for the goals to be achieved, but without going into all aspects in detail, and leaving some scope for innovations resulting from fast-evolving technical research.

The present proposal is thus the legislative text of the directive called for by Parliament, albeit one confined mostly to the above item (a), viz. the frontal surfaces of vehicles.

¹ Council press release - Internal Market, Consumer Affairs and Tourism - Protection of vulnerable road-users, 26.11.2001, item 9.

² P5_TAPROV(2002)0323, 13.6.2002.

- Item (b) (fitting with ABS) is currently in preparation, and is to be implemented in full with effect from the scheduled date, in accordance with the voluntary agreement;
- Item (c) (DRL) cannot or may not be introduced in all Member States because it would still conflict with some items of national legislation, and the advantage of DRL in certain lighting conditions (in particular in southern Europe) is not always clear;
- Item (d) (ban on rigid bull bars on all new motor vehicles). This requires legislation, because a decision to refuse to supply these as an accessory cannot be reached by voluntarily agreement between the Commission and motor manufacturers. The producers of this item also had to be involved, and legislation was found to be the best solution;
- Item (e) is being introduced progressively in cooperation with the Commission. This is expected to play an important part in developing active safety measures, i.e. in accident prevention.

II. The proposal for a directive

The intention is to proceed in two phases to requiring the construction of 'pedestrian-friendly' frontal surfaces of motor cars. It should be realised that these phases will apply to **new types of vehicles** (Annex I, point 2.6), and not to new vehicles of an existing type.

- The first phase (Annex 3.1), starting on 1 October 2005 (Article 2(2)) , will require new types of vehicles to pass two tests, viz. 3.1.1.1. or 3.1.1.2, and 3.1.2. Tests 3.1.3 and 3.1.4 will not be compulsory, and will be required for monitoring purposes only (see paragraph 3.1);
- The second phase (Annex 3.2) starting on 1 September 2010, will require the frontal structures of new types of vehicles to pass 4 different tests, viz. 3.2.1.1 or 3.2.1.2, 3.2.2, 3.2.3 and 3.2.4.
- Vehicles that already comply with the requirements of the first or second phase may be brought into service as of 1 January 2004.
- With effect from 31 December 2012, no new vehicles may be brought into service that fail to comply with phase 1 (or 2).
- With effect from 31 December 2015, no new vehicles may be brought into service that fail to comply with phase 2.

The last two provisions are to prevent new vehicles of an old type not complying with phase-1 or phase-2 requirements from being marketed for a long period.

- National authorities shall be actively involved in implementing the above arrangements, in so far as measures to protect pedestrians form part of the type-approvals procedure and the procedure for issuing compliance certificates.

Article 6 of proposal for a directive 70/156//EEC is amended to that end.

- Article 5 of the proposal requires a feasibility assessment which must be conducted by 1 July 2004. This will be to determine in particular if the requirements of Annex I, section 3.2 (second phase) are achievable (100% achievable or not, or not by the deadlines fixed, etc).

The study is to be based on 'relevant information' from approval bodies, the parties concerned (i.e. the industry) and independent studies.

III. Comments

Amendments 1 and 2: It is rightly pointed out that this proposal for a framework directive cannot be viewed as a total solution to the issue of pedestrian protection, given that this is an area of policy which involves so many different actors and phases. As underlined by the Hedkvist Petersen report, adopted by Parliament on 13 June 2002, "the EU has a clear and specific competence in establishing car design standards, in the context of the internal market". However, other elements of an overall package of pedestrian protection measures (better infrastructure design, improved driving behaviour, introduction of new accident prevention technologies etc.) can and should be addressed by the Member States, at both national and local level and by the car industry itself.

Amendments 3 and 4: Given that this directive relates specifically to "protection of pedestrians and other vulnerable road users in the event of a collision with a motor vehicle", it can only address in-crash safety - i.e. minimising the injury to a pedestrian in the event of his or her being involved in a road traffic accident, within the limits of feasibility. We therefore have to be clear that the directive's scope is limited to passive safety measures. Active measures, which prevent accidents from occurring in the first place, are to be supported but should be considered as an addition, rather than an alternative, to this proposal.

Amendments 3 and 5: This proposal establishes EEVC as the benchmark against which possible alternative solutions should be measured. The Hedkvist Petersen report also underlined that EEVC represents "a dynamic process which can and must continue to develop in line with new technologies." It must therefore be made possible to build flexibility into this process, in order to allow adaptation of the directive to technological progress. This would be best achieved via recourse to the Committee for Technical Adaptation to Progress, established by the type approval directive, rather than having to resort to a full co-decision procedure, whenever the directive needs to be technically updated. Within this framework, it remains within Parliament's prerogatives to challenge secondary legislation produced by that committee, if it disagrees with it.

Given that this directive establishes EEVC as the long-term benchmark for the EU in the field of in-crash pedestrian protection, your rapporteur wishes to underline the need for those Member States which have not already done so, to join the European Enhanced Vehicle Safety Committee. To ensure that EEVC research remains a dynamic process which is at the cutting edge of technological development in the field of pedestrian protection, it is also essential that the Committee has access to an adequate and reliable source of funding, via a combination of support from the EU's Framework Programme for Research and Technological Development, and the domestic research budgets of Member States.

10 June 2003

OPINION OF THE COMMITTEE ON LEGAL AFFAIRS AND THE INTERNAL MARKET

for the Committee on Regional Policy, Transport and Tourism

on the proposal for a European Parliament and Council directive on the protection of pedestrians and other vulnerable road users in the event of a collision with a motor vehicle and amending Directive 70/156/EEC
(COM(2003) 67 – C5-0054/2003 – 2003/0033(COD))

Draftsman: Malcolm Harbour

PROCEDURE

The Committee on Legal Affairs and the Internal Market appointed Malcolm Harbour draftsman at its meeting of 18 March 2003.

It considered the draft opinion at its meetings of 21 May and 10 June 2003.

At the last meeting it adopted the following amendments unanimously.

The following were present for the vote Giuseppe Gargani (chairman), Bill Miller (vice-chairman), Malcolm Harbour (draftsman), Paolo Bartolozzi, Ward Beysen, Bert Doorn, Janelly Fourtou, Evelyne Gebhardt, José María Gil-Robles Gil-Delgado, Piia-Noora Kauppi (for The Lord Inglewood), Kurt Lechner, Klaus-Heiner Lehne, Manuel Medina Ortega, Angelika Niebler (for Anne-Marie Schaffner), Marcelino Oreja Arburúa (for Rainer Wieland), Marianne L.P. Thyssen, Diana Wallis, Matti Wuori (for Neil MacCormick) and Stefano Zappalà.

SHORT JUSTIFICATION

In July 2001, the European Commission presented a proposal to improve the safety of motor cars in collision with a pedestrian. This proposal contained a number of innovative points:

- The desired improvements were to be delivered through a negotiated agreement with global car manufacturers.
- The agreement reflected the evolving technology in both passive (more resilient vehicle fronts) and active (collision avoidance and mitigation) technologies. It also reflected the need to develop new test standards to provide car designers with clear performance benchmarks co-relating with injury reduction.
- Improvements would be introduced in a two-phased approach. The first would involve compliance at the earliest possible date with currently demonstrated test standards. The second, more demanding, phase would be determined by July 2004 following extensive research on test methods and design solutions, with the possibility of introducing both passive and active technologies.

Evolution of the Proposal

The Council supported the Commission proposal unanimously in November 2001. In April 2002, the Parliament also supported the proposal, but asked for it to be given legal underpinning by a framework directive, that which would set out the final basis for the negotiated agreement and the time scales in which it will be achieved. The Committee on Legal Affairs and the Internal Market gave an opinion on the proposal, drafted by your rapporteur, which gave positive support to the approach taken by the Commission.

The Current Directive

Parliament is now asked to give approval to the Framework Directive, drafted by the Commission following Parliament's first opinion. Your rapporteur has studied the details of the Directive, and considers that it accurately reflects Parliament's requirements. It incorporates the details of the Phase 1 tests and the process to develop and agree standards for Phase 2. The Directive includes provision for a feasibility study, to be undertaken by the Commission by July 2004, to examine alternative proposals for Phase 2 that offer "at least equal protective effects" to the Phase 2 methods already proposed.

Rapporteur's position

Your rapporteur considers that Parliament should maintain its previous position and endorse the decision it made in April 2002. He considers that it is entirely inappropriate to alter the original parameters, nor to seek an extension to other vehicle classes (eg. SUVs). Given the 2-3 year lead time required to design, test and tool up new cars, it is essential that a stable regulatory framework is maintained. He therefore recommends that the Committee on Legal Affairs and the Internal Market should endorse the Commission proposal and request that the Committee on Regional Policy, Transport and Tourism accept its legislative provisions without amendment. The rapporteur does, however, propose some amendments and additions to the recitals in the following areas:

1. To explain clearly the need to develop more sophisticated, comprehensive, repeatable and representative test methods for Phase 2. The benchmark EEVC texts were developed in an earlier era where large-scale computer simulation modelling tools were not available, and where test dummy technology was unsophisticated. To provide car designers with clear benchmarks that co-relate with real world conditions, new tests (some of which could involve computer modelling) must be developed. Internal Market solutions can be optimised by having good, repeatable, testing and certification methods.

2. To emphasis the need for active collision avoidance or mitigation technologies to be incorporated into the Phase 2 solutions. Collision speed and angle of impact are crucial determinants of injury level in car-to-pedestrian collisions. If a car's speed and attitude can be adjusted prior to a collision through active sensory and braking technology, this will make a very large contribution to safety enhancement. Furthermore, it will allow the car front end to be designed to mitigate injuries under more predictable impact conditions.

AMENDMENTS

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 amendments in its report:

Text proposed by the Commission¹

Amendments by Parliament

Amendment 1
Recital 3 a) (new)

(3a) More comprehensive and repeatable methods than the EEVC recommendations are now feasible, given the widespread availability of advanced computer modelling and sophisticated crash test dummy technologies; pedestrian safety would be further enhanced if car designers had improved design tools and criteria that provided a closer match to real-world injury reduction; new test standards should therefore be considered as an evolution from the EEVC standards.

Amendment 2
Recital 5 a) (new)

¹ Not yet published in OJ.

(5 a) The rapidly advancing technology in active safety means that collision mitigation and avoidance systems could provide major safety benefits; for example in reducing collision speed and adjusting impact direction; development of these technologies should be encouraged by this proposal.

22 May 2003

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

for the Committee on Regional Policy, Transport and Tourism

on the proposal for a European Parliament and Council directive relating to the protection of pedestrians and other vulnerable road users in the event of a collision with a motor vehicle and amending Directive 70/156/EEC
(COM(2003) 67 – C5-0054/2003 – 2003/0033(COD))

Draftsman: Bart Staes

PROCEDURE

The Committee on the Environment, Public Health and Consumer Policy appointed Bart Staes draftsman at its meeting of 25 March 2003.

It considered the draft opinion at its meetings of 30 April 2003 and 22 May 2003

At the latter meeting it adopted the following amendments by 27 votes to 2, with 0 abstentions.

The following were present for the vote Caroline F. Jackson, chairman, Guido Sacconi, vice-chairman, Bart Staes, draftsman, and María del Pilar Ayuso González, Hans Blokland, David Robert Bowie, Philip Bushill-Matthews (for John Bowis), Giles Bryan Chichester (for Christa Klauf, pursuant to Rule 153(2)), Raffaele Costa, Cristina García-Orcóyen Tormo, Françoise Grossetête, Marie-Thérèse Hermange, Marie Anne Isler Béguin, Dieter-Lebrecht Koch (for Giuseppe Nisticò, pursuant to Rule 153(2)), Eija-Riitta Anneli Korhola, Bernd Lange, Giorgio Lisi (for Karl-Heinz Florenz), Torben Lund, Patricia McKenna, Erik Meijer, Rosemarie Müller, Ria G.H.C. Oomen-Ruijten, Dagmar Roth-Behrendt, Yvonne Sandberg-Fries, Karin Scheele, Inger Schörling, María Sornosa Martínez, Kathleen Van Brempt and Phillip Whitehead.

SHORT JUSTIFICATION

The proposal for a European Parliament and Council directive relating to the protection of pedestrians and other vulnerable road users is extremely important for the purpose of improving pedestrian safety in the EU. Each year, around 8500 pedestrians and cyclists are killed in road accidents in Europe. This is equivalent to nearly 24 per day.

In a resolution adopted on 13 June 2002, the EP opted for a framework directive incorporating a clear and realistic timetable for attaining a sufficiently high standard of protection of pedestrians. The EP stressed the important role of the EEVC in road safety research and the fact that this role was recognised the world over. The EEVC tests were adopted in 1993 and have been used since 1997 by the European New Car Assessment Programme Euro NCAP which publishes information on the safety of cars, receiving its funding mainly from the Commission.

The present proposal for a directive sows confusion. It provides for a two-stage approach. During the initial stage it would be left to car manufacturers to decide whether to comply with the JRC/ACEA tests or with the EEVC tests or even with new 'EEVC-equivalent' measures. These tests would apply to all new types of vehicles from 1 October 2005 and to all new vehicles from 31 December 2012. In the second stage, the four EEVC tests or 'measures of at least equivalent protective effect' would have to be applied: to all new types of vehicle from 1 September 2010 and to all new vehicles from 1 September 2015.

The EEVC tests are far more rigorous than the JRC/ACEA tests. The UK Transport Research Laboratory has calculated that the level of safety ensured by the latter tests is 70% lower than that ensured by the equivalent EEVC tests.

Moreover, the proposal for a directive provides that the EEVC tests and the new equivalent measures should undergo a feasibility assessment by 1 July 2004. All in all a strange and unacceptable demand in view of the worldwide positive reputation of the EEVC test method, which has already been developed and adjusted over a period of more than 22 years and is generally regarded as the best possible and strictest method of testing, as well as reducing the number of deaths on the roads by nearly 2000 per annum.

In order not to create any legal uncertainties and to protect vulnerable road-users to the maximum, it is desirable to adopt the strictest standard as quickly as possible. This strict standard can always be further improved by means of additional and stricter measures.

Even now, some manufacturers produce vehicles which largely comply with the EEVC standards, at no significant additional cost. In order to encourage the industry to follow this example, a clear framework needs to be created within which the EEVC standards and possible additional standards are ultimately imposed in accordance with a strict timetable. The draftsman proposes that all new types of vehicle should comply with the existing EEVC tests by 1 September 2008. New cars should meet the same standards within a further five years. This accords with the wish expressed by the EP (Resolution of 13 June 2002) 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'. For 2008 the requirement for new types of car at least to comply with the ACEA or EEVC tests can be accepted. In addition, it must be made clear that as from 31 December 2009 it will no longer

be possible to issue any licences for new cars which do not comply with the JRC/ACEA or EEVC tests.

Moreover, the basic rule is that the EEVC tests should not be subject to a feasibility assessment. Requiring the EEVC tests to undergo such an assessment seems too much like an attempt to rig the rules so as to give the industry a way of evading the strictest standards of testing. The draftsman also wishes to raise the maximum weight of vehicle to which the directive applies from 2.5 tons to 3.5 tons. This will cut off a possible avenue of escape from the scope of the directive for SVUs, whose popularity is constantly growing.

AMENDMENTS

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 amendments in its report:

Text proposed by the Commission¹

Amendments by Parliament

Amendment 1

Recital 4

(4) In view of the speed of technological development in this area, alternative ***measures of*** at least equivalent effect to the requirements of this Directive, ***including active safety measures***, may be proposed by the industry and shall be assessed following a feasibility study by 1 July 2004; the introduction of alternative ***measures*** with at least equal protective effects would require amending this Directive.

(4) In view of the speed of technological development in this area, alternative ***test methods that assess*** at least equivalent ***crash protective*** effect to the requirements of this Directive, ***including supplementary measures to improve the safety of pedestrians***, may be proposed by the industry and shall be assessed following a feasibility study by 1 July 2004; the introduction of alternative ***test methods*** with at least equal ***crash protective effects and supplementary measures*** would require amending this Directive.

Justification

In its plenary resolution of June 2002 on pedestrian protection, the European Parliament considered 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." In other words, the European Parliament only accepted the possibility of using alternative test methods to the EEVC tests, but not alternative measures as now suggested by

¹ OJ C not yet published.

the Commission. Allowing active safety measures to replace EEVC tests would make it possible to reduce the level of passive protection contrary to the calls by the EP. Active measures should be taken in addition and not instead of passive measures. The feasibility study should therefore be about alternative test methods with at least equal crash protective effects, and not about alternative measures.

It is also not necessary to subject the EEVC tests to a feasibility study. They were developed over 22 years in a joint research program; they have been used by EuroNCAP since the '90's and have been shown to be reliable.

Amendment 2
Recital 5

(5) Because of the ongoing research and technical progress in the area of pedestrian protection, it is appropriate to introduce a certain degree of flexibility in this field. Accordingly, this Directive establishes the fundamental provisions regarding pedestrian protection in the form of tests to be complied with by new types of vehicles and by new vehicles. The technical prescriptions for the application of those tests should be adopted by Commission decision.

(5) Because of the ongoing research and technical progress in the area of pedestrian protection, it is appropriate to introduce a certain degree of flexibility in this field. Accordingly, this Directive establishes the fundamental provisions regarding pedestrian protection in the form of tests to be complied with by new types of vehicles and by new vehicles. ***Any research-based adaptation to technical progress of the EEVC test methods should be carried out within the framework of the Committee provided by the Whole Type Approval System to this effect, the Committee for Adaptation to Technical Progress (CATP). The tests used should in any case result in the same level of protection as the EEVC requirements and give protection against injury in all the body regions covered by EEVC.*** The technical prescriptions for the application of those tests should be adopted by Commission decision.

Justification

Research-based adaptation to technical progress whenever necessary and on the basis of scientific studies should be carried in the usual way. This would ensure continuous adaptation.

Amendment 3
Article 1, paragraph 1

- 1) The Directive applies to the frontal surfaces of vehicles. For the purpose of this Directive, “vehicle” means any motor vehicle as defined in Article 2 of and Annex II to Directive 70/156/EEC, of category M1, ***of a total permissible mass not exceeding 2.5 tonnes***, and N1 derived from M1, ***of a total permissible mass not exceeding 2.5 tonnes***.

- 1) The Directive applies to the frontal surfaces of vehicles. For the purpose of this Directive, “vehicle” means any motor vehicle as defined in Article 2 of and Annex II to Directive 70/156/EEC, of category M1 ***and MIG*** and N1 ***or NIG*** derived from M1 ***and MIG***.

In order to put the text in line with this amendment, footnote (6) to Article 6 (3) should be deleted and an "X" should be put into the 5th column of Article 6 (4)

Justification

It is perfectly acceptable that Sports Utility Vehicles should be included in the Directive, as provided for in the proposal, but it is not necessary to change the categories.

Amendment 4
Article 2, paragraph 3

Paragraph 2 shall not apply to vehicles which do not differ with respect to their essential aspects of bodywork construction and design forward of the A pillars from vehicle types which have been granted EC type approval or national type approval before 1 October 2005, which have not already been approved to this Directive.

Deleted

Justification

This is a loophole in the Directive. This Article does not make a clear distinction between new vehicle types and vehicle types derived from already approved ones.

Amendment 5
Article 5, paragraph 1

(1) The Commission, based on relevant information communicated by the approval authorities and interested parties as well as on independent studies, shall monitor the progress made by the industry in the area of pedestrian protection, and shall carry out, by 1 July 2004, a feasibility assessment concerning the provisions in Annex I, section 3.2. **and in particular other measures which are at least equivalent** (at least equal protective effects).

(1) The Commission, based on relevant information communicated by the approval authorities and interested parties as well as on independent studies **and technical developments**, shall monitor the progress made by the industry in the area of pedestrian protection, and shall carry out, by 1 July 2004, a feasibility assessment concerning **alternative test methods** to the provisions in Annex I, section 3.2. **(of at least equal crash protective effects) and supplementary measures to improve the safety of pedestrians.**

Justification

In its plenary resolution of June 2002 on pedestrian protection, the European Parliament considered 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." In other words, the European Parliament only accepted the possibility of using alternative test methods to the EEVC tests, but not alternative measures as now suggested by the Commission. Allowing active safety measures to replace EEVC tests would allow to reduce the level of passive protection contrary to the calls by the EP. Active measures should be taken in addition and not instead of passive measures. The feasibility study should therefore be about alternative test methods with at least equal crash protective effects, and not about alternative measures.

It is also not necessary to subject the EEVC tests to a feasibility study. They were developed over 22 years in a joint research program; they are being used by EuroNCAP since the '90's and have shown to be reliable.

Amendment 6
Article 5, paragraph 2

2 The Commission shall report ***on a regular basis*** to the Council and the European Parliament on the results of the monitoring referred to in paragraph 1.

2. The Commission shall report ***before 1 April 2006, and every two years thereafter***, to the Council and the European Parliament on the results of the monitoring referred to in paragraph 1.

Justification

The reporting requirements need to be clarified.

Amendment 7
Article 5, paragraph 2 (a) (new)

2a) The results of monitoring should serve as the basis for a Commission report to be submitted to the European Parliament and the Council by 1 July 2006 and possibly containing proposals for a revision of the voluntary commitment or this Directive or other legislative proposals if it is shown that the pedestrian safety objectives have not been achieved by the measures taken hitherto.

Justification

Appropriate action should be taken in the light of the results of the proposed monitoring.