

Transmitted by OICA

Informal document **WP.29-155-03**  
(155<sup>th</sup> WP.29, 15 - 18 November 2011,  
agenda item 4.4)

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**Proposal for guidelines on the scope, administrative provisions  
and alternative requirements in Regulations annexed  
to the 1958 Agreement**

**OICA comments to  
ECE/TRANS/WP.29/2011/48/Rev. 1**

## I. Proposal

Paragraph 2, amend to read:

- "2. This proposal is for streamlining the future work in the subsidiary bodies and does not alter the current understanding and interpretation of the 1958 Agreement **in its 1995 edition** and the existing UN Regulations. If there is any inconsistency between these guidelines and the current text of the 1958 Agreement, the latter prevail."

Paragraph 3, amend to read:

- "3. Articles 1(3) and 3 of the 1958 Agreement lays down two main principles for UN Regulations:
- (a) Mutual recognition: A type approval issued according to a UN Regulation by a Contracting Party applying that Regulation shall be accepted by all the Contracting Parties applying the said Regulation ~~through type approval~~.
  - (b) UN Regulations are optional: Contracting Parties are free to choose which UN Regulations they access to. Furthermore, even when they access to a UN Regulation, they have the possibility to keep their own alternative national/regional legislation. If they wish, they may substitute their national/regional legislation by the requirements of UN Regulations, but they are not bound by the Agreement to do so. The only obligation concerning UN type approvals is to accept them as an alternative to national/regional legislation."

Chapter IV, amend the title to read:

- "IV. General guidelines on cross references to standards **or other UN Regulations** in UN Regulations"

Add a new paragraph 7, and re-number all following paragraphs accordingly, to read:

- "7. If a UN Regulation makes reference to the provisions of another UN Regulation, it shall not require approval to that Regulation, but simply refer to the provisions of the Regulation referred to. Furthermore, each Working Party shall carefully review such references in order to avoid possible later interpretation difficulties."

Paragraph 26, amend to read:

- "26. A Supplement becomes applicable as from the date of entry into force, after which tests according to the Regulation need to take into account the Supplement in question. In the absence of any other date mentioned, Supplements become applicable for all **procedures for new approval procedures** started after the date of its entry into force, **taking however into account the transitional provisions, if any, of the series of amendments to which the Supplement refers.** **Unless specifically foreseen otherwise, extensions of existing approvals may continue to be granted on the basis of the provisions valid at the time of the original approval."**

Figure 1, item (d), delete

Figure 1, note, amend to read

*Note:*

If (b) and (c) dates are not written in to the transitional provisions, they are regarded as identical to date (a).

**~~If date (d) is not written in the transitional provisions, the~~ Existing approvals ~~can~~ shall remain valid, but Contracting Parties are not obliged to accept them as from date (c)."**

Annex 1, paragraph V.8, should be deleted, and all references to paragraph V.8 should consequently be deleted as well.

Annex 1, Paragraph C.9, should be deleted, and all references to paragraph C.9 should consequently be deleted as well.

## II. Justification

Paragraph 2: OICA wishes to remind that document ECE/TRANS/WP.29/48/Rev.1 was developed taking into account the current 58 Agreement. In its informal document WP29-154-05, OICA had proposed further amendments to the guidelines, but WP29 recognised that several of the OICA proposals were based on a potential further development of the 58 Agreement, as being developed by the WP.29 Informal Group on IWVTA. Consequently, WP29 suggested that these guidelines should at this stage only take into account the current 58 Agreement, while the final outcome of the activities of the IWVTA informal group will most probably require a further review of these guidelines.

It would in conclusion be useful to specify the version of the 58 Agreement, to remind that a future revision of the Agreement may entail further changes to these guidelines

Paragraph 3: OICA continues to believe that the words "through type approval" should be deleted. Even under the current 58 Agreement, it is indeed possible not to have a national type approval system in place for national legislation, while at the same time accepting valid ECE type approvals and even granting ECE type approvals. At least one Contracting Party to the 58 Agreement does not have nationally a type approval system, but a self-certification system; at the same time, this Contracting Party applies UN Regulations (granting of and accepting approvals), but not through a type approval system. Retaining the words "through type approval" could consequently create legal problems in some cases.

Paragraph 3 in fact recognises this in part (b), where the last sentence now clearly mentions "national/regional legislation" and not "national/regional type approval". In addition, also Paragraph 14 recognises that the national administrative procedures are a national issue.

For consistency, part (a) should therefore equally recognise this fact.

Chapter IV (title) and Paragraph 7 (new): In addition to guidelines regarding references to ISO standards, OICA believes it would be useful to provide some guidance also when reference is made to another UN Regulation. Experience however shows that a unique solution is not possible in all cases, but a recommendation to all Working Parties to pay

close attention to this question seems worthwhile. What however should be clear is that when reference is made to another UN Regulation, this should not be construed as a requirement that approval to that other UN Regulation must have been granted beforehand.

Paragraph 26: One has to recognise that in some cases supplements may entail design changes. Manufacturers may have to request an extension of approval, sometimes even for simple administrative changes, without any technical change to the product itself. Distinction should therefore be made between "procedure for new approval" (approval of a new type) and "new approval procedure" (which might comprise extension of an existing approval".

In addition, a Supplement to a series of amendments may be adopted quite soon after the adoption of that series of amendments; as a consequence, the entry into force of that Supplement may well precede the mandatory approval date in that series of amendments (see e.g. Supplement 1 to UN Regulation R94.02).

In order to avoid interpretation difficulties, it needs to be clarified that supplements without transitional provisions are linked to the transitional provisions of the corresponding series of amendments.

Figure 1 (including the note) and Annex 1, paragraphs V.8 and C.9: OICA strongly insists that these paragraphs must be deleted and the Figure 1 must be corrected accordingly. Specifying that existing approvals become invalid at a certain date seems totally contrary to the 58 Agreement. A granted approval should remain valid indefinitely, even though of course Contracting Parties may select not to accept them anymore after a certain date, as foreseen in paragraph V.7. Such international approvals to a previous series of amendments may well be accepted by some Contracting Parties or by other countries outside to the 58 Agreement  
Paragraph V.7 provides therefore all the necessary safeguards, but Paragraph V.8 (and C.9) are not only redundant, they are even incorrect.  
Obviously, according to the current 58 Agreement, it would be impossible to grant approval to a previous series of amendments after a certain date, but those approvals already granted should remain valid for those countries still accepting them.

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