

Transmitted by the expert from OICA

RESOLVING OF INTERPRETATION ISSUES

Document TRANS/WP.29/2005/92

OICA OBSERVATIONS

I. INTRODUCTION

OICA strongly welcomes the proposal submitted by the European Community, aimed at defining a procedure for the resolution of interpretation issues as well as for the introduction of provisions for new technologies.

OICA is convinced that such procedures are needed for both authorities and industry and ultimately also for the consumers.

Nevertheless, after detailed consideration of the proposal, OICA would like to suggest some few amendments, in an effort to reach a fully satisfactory and robust procedure.

The OICA suggestions are explained below.

II. COMMENTS TO TRANS/WP.29/2005/92

Item A.1, first sentence, amend to read:

"When an application for type approval requires ... of the Regulation, **or if so requested by the applicant for approval**, they shall ... before making a decision."

Item A.2, amend to read:

"(i) in the event of an error ... is needed, unless, **in the exceptional case of a serious hazard to safety or the environment**, the withdrawal of the approval is necessary."

Item A.2, add a new (iv) to read:

"(iv) Existing approvals shall remain valid, unless otherwise dictated by item (i) above."

Item A.3, last sentence, amend to read:

"After arbitration, **the approval authorities may issue approvals according to the agreed interpretation** and the chairperson shall provide a report to AC.2/WP.29."

Item A.4.1, OICA comment:

OICA suggests that provisions be made for official publication of the agreed interpretation. Possibly the interpretation might be published in the UN/ECE Regulation concerned?

Item A.4.2, OICA comment:

OICA has some concerns with the first sub-paragraph, since this could lead to a long delay in approvals, even those already pending.

OICA would like to suggest that new applications for approvals should still be possible and that pending approvals continue their normal process, even though the UN/ECE Regulation has not yet been amended.

As a minimum, OICA needs some priority arrangement such that approvals can be issued without waiting for the whole amendment process (including WP.29/AC.1 and transmission to the UN Secretariat in New York), e.g. as soon as the responsible Working Party has reached agreement on the amendment.

Item B., first sentence, amend to read:

"**Notwithstanding the possibility of having national approvals**, when a new technology
- cannot be taken into account ... drafting ...); **and**
- ~~is not sufficiently mature to justify amending the Regulation in a general way;~~
..."

Item B., 2nd sentence on page 6, amend to read:

"If the Working Party approves the application, then **the Contracting Party shall be allowed to issue approval and** the summary document shall be forwarded ..."

III. JUSTIFICATION

Item A.1

OICA suggests that the manufacturers/suppliers should equally be able to request the interpretation procedure to be started, e.g. when the manufacturer/supplier believes that the Approval Authority is not interpreting correctly. Such possibility would also ensure that the manufacturer/supplier is not "forced" to seek another Authority.

Item A.2

- Item (i): OICA suggests to restrict approval withdrawal to exceptional cases, where there is a clear hazard.
- Item (iv): OICA suggests clarification that existing approvals in principle remain valid. Otherwise, there is a clear risk that previously valid approvals are suddenly invalidated, even in the absence of a hazard.

Item A.3

OICA suggests clarification that, as soon as the arbitration procedure is completed, approvals to complying products can be granted.

Item B.

OICA believes the 2nd requirement that the new technology is insufficiently mature to justify amending the Regulation is overly restrictive and potentially discriminating.

As an example, manufacturer A obtains such exemption for vehicle a, without time limits; consequently, the procedure to officially amend the Regulation is started and the appropriate Working Party prepares the issue. In this case, other manufacturers could not obtain a similar exemption, simply because the condition that the technology "is not sufficiently mature to justify amending the Regulation" cannot be met.

OICA consequently proposes deletion of the 2nd condition.

Finally, OICA wishes to point out that the whole proposal process is potentially very lengthy, with submission of a file to the Working Party, study and approval by the Working Party, submission to WP.29 and AC.1.

OICA therefore suggests that approvals can be issued as soon as the Working Party has approved the application.
