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UN Regulation No. 48 - Other amendments to Regulation No. 48

Discussion concerning the possible introduction of a definition of "Manufacturer" into Regulation No. 48

Submitted by the expert from the Working Party "Brussels 1952"*

The text reproduced below was prepared by the expert from the Working Party "Brussels 1952" (GTB) to form the basis for a discussion relating to the possible introduction of a definition for "Manufacturer" that is compatible with other existing Global Regulations.

* In accordance with the programme of work of the Inland Transport Committee for 2010–2014 (ECE/TRANS/208, para. 106, ECE/TRANS/2010/8, programme activity 02.4), the World Forum will develop, harmonize and update Regulations in order to enhance the performance of vehicles. The present document is submitted in conformity with that mandate.

I. Introduction

1. Many ECE regulations have been issued in the framework of the 1958 Agreement without defining the term "Manufacturer", but this lack of precision did not create difficulties because the first Regulations referred to simple products, and the understanding was unambiguous.
2. More recently, the Regulations have started to address intricate relationships between the road vehicles and their components, involving a mesh of technical interactions, making it complicated to assess the respective responsibilities of the parties. In view of this, GTB considers that it advisable to include relevant and precise definitions into ECE Regulation No. 48.
3. The GTB Photometry Group, comprised of experts representing the Technical Services, is working to identify an acceptable solution and at its recent meeting the GTB Committee of Experts concluded that, before attempting to draft a definitive proposal, a GRE discussion is necessary. The fundamental nature of this definition, which potentially affects all Regulations within the 1958 agreement and is the subject of discussions in other GR's, suggests that such a discussion is required and consultation with other GR's may be necessary.

II. The Problem

4. In its proposal to the sixty-third session of GRE (see TRANS/WP.29/GRE/2010/3), GTB stated that it is necessary to address the need of manufacturers to produce and supply products which differ only by trade name or mark while, at the same time, ensuring that products having the same trade name or mark, but produced by different manufacturers, are considered as a different type.
5. As a wider issue, due to the complexity of the supply chain associated with complex systems, it is necessary to clearly define the responsibilities relating to type approval and the subsequent conformity of production.
6. Additionally there is a lack of clarity or consistency in the UN Regulations. For example, Regulation No. 48 refers to "manufacturer", "manufacturer or his duly accredited representative" and "applicant". Regulation No. 123 refers to "the owner of the trade name or mark or by his duly accredited representative", "manufacturer's representative" and "applicant". Regulation No. 122 refers to "manufacturer", "manufacturer of the vehicle or by his duly accredited representative" and "applicant".

III. Approaches being considered by GTB

7. In TRANS/WP.29/GRE/2010/3 GTB proposed the following sentence to be incorporated into the text of the device regulations but this then leads to the requirement to define "manufacturer" in Regulation No. 48:

"Devices bearing the same trade names or marks but produced by different manufacturers are considered as being of different types."

8. GTB Photometry Working Group proposal for consideration at the GTB Committee of Experts – October 2011:

"Manufacturer" means the person or body who is responsible to the approval authority for all aspects of the type approval process and for ensuring conformity of production. It is not essential that the person or body is directly involved in all

stages of the construction of the vehicle or component which is the subject of the approval process."

9. Proposal from the GTB French delegation submitted for consideration at the GTB Committee of Experts – October 2011:

"Manufacturer" means any natural or legal person who manufactures, assembles or has designed or manufactured motor vehicles to be used on roads.

"Part manufacturer" means any natural or legal person who manufactures, assembles or has designed or manufactured parts for motor vehicles to be used on roads.

"Applicant" means any natural or legal person representing the Manufacturer or the part Manufacturer for all aspects of the ECE type approval process and for ensuring conformity of production.

IV. Approach in Other Regulations

10. UN Regulation No. 122

"Manufacturer" means the person or body who is responsible to the approval authority for all aspects of the type approval process and for ensuring conformity of production. It is not essential that the person or body is directly involved in all stages of the construction of the vehicle or component which is the subject of the approval process.

11. European Type Approval Framework Directive 2007/46/EC

"Manufacturer" means the person or body who is responsible to the approval authority for all aspects of the type-approval or authorisation process and for ensuring conformity of production. It is not essential that the person or body be directly involved in all stages of the construction of the vehicle, system, component or separate technical unit which is the subject of the approval process;

"Manufacturer's representative" means any natural or legal person established in the Community who is duly appointed by the manufacturer to represent him before the approval authority and to act on his behalf in matters covered by this Directive, and where reference is made to the term 'manufacturer', it is to be understood as indicating either the manufacturer or his representative;

12. Decision No 768/2008/EC of The European Parliament and of the Council - 9 July 2008 on a common framework for the marketing of products,

"manufacturer" shall mean any natural or legal person who manufactures a product or has a product designed or manufactured, and markets that product under his name or trademark;

"authorised representative" shall mean any natural or legal person established within the Community who has received a written mandate from a manufacturer to act on his behalf in relation to specified tasks;

V. The solution for the Lighting and Signalling Regulations

13. Is it sufficient to use the definition in UN Regulation No. 122, adopted by the Working Party on General Safety Provisions (GRSG), or is it necessary to differentiate between the "manufacturer" and the "manufacturer's Representative" ?
