

DRAFT

Revised guidelines on amendments to UN Regulations

At its March 2014 session, the World Forum WP.29 noted concerns on new series of amendments to existing UN Regulations especially those with long transitional provisions (see report ECE/TRANS/WP.29/1108, para. 45) and requested the secretariat to prepare guidelines to address the basic principles when adopting amendments proposed to existing UN Regulations annexed to the 1958 Agreement, also in the view of the forthcoming adoption by WP.29 of draft Revision 3 to the Agreement.

This document proposes a set of such guidelines. However, it does not refer to the proceedings for amendments to UN Type approvals (extensions and revisions), which are specified in section 2 of Schedule 3 to draft Revision 3 of the 1958 Agreement. It does neither address the review of the guidelines on transitional provisions, as noted by WP.29 (see ECE/TRANS/WP.29/1108, para. 45). A proposal for the review of the current transitional provisions (ECE/TRANS/WP.29/1044/Rev.1) is expected to be considered by WP.29 informal group to develop a procedure for the International Whole Vehicle Type Approval (IWVTA). The current amendment procedures are listed in the annex to this document.

I. Amendments resulting from draft Revision 3 to the 1958 Agreement

At its March 2010 session, the World Forum agreed to establish an informal group to develop a procedure for the International Whole Vehicle Type Approval (IWVTA) in the framework of the 1958 Agreement (see report ECE/TRANS/WP.29/1083, para. 62). The terms of reference and rules of procedures of IWVTA are laid down in ECE/TRANS/WP.29/1083/Add.1. In March 2015, IWVTA concluded its deliberation of draft Revision 3 to the 1958 Agreement as reflected in ECE/TRANS/WP.29/2015/40 for consideration by WP.29 at its June 2015 session.

After the date of entry into force of that Revision 3 (expected in November 2016), some new provisions to the 1958 Agreement will result in additional administrative tasks and procedures for the UNECE secretariat. One of the main objectives of the revised Agreement consists in inserting new provisions for the IWVTA system and allowing the Contracting Parties to apply former versions of UN Regulations annexed to the 1958 Agreement. The following guidelines aim at addressing some of these new tasks and propose possible procedures to facilitate the performance by the secretariat of these tasks.

II. Proposal for guidelines

1. New series of amendments

In the past, the secretariat was used to prepare a new consolidated text (i.e. Revision) of a UN Regulation following the entry into force of about 5 Amendments (new Series or Supplements), independently from the nature of the technical amendments. Recently, the secretariat decided to always publish new Series of amendments to a UN Regulation as a consolidated text.

2. Series of amendments with long transitional provisions

In recent years, the World Forum WP.29 adopted a number of new series of amendments to existing UN Regulations together with long transitional provisions of several years. Some examples of such UN Regulations are listed in informal document WP.29-162-18. During the transitional period, 2 or even 3 series of amendments to such a UN Regulation are applicable in parallel and, subsequently, may be amended by Supplements. In the past, it happened that some incoherencies have been introduced in some of the parallel series of amendments to these UN Regulations. The Office of Legal Affairs (OLA) requested the secretariat to indicate clearly to which series of amendments a new Supplement is addressed to. Thus, all Working Parties subsidiary to WP.29 shall carefully identify to which series of amendments the proposed Supplement is addressed to, when considering and adopting new proposal for Supplements to UN Regulations. In the case, several series of amendments are addressed to by a Supplement, the secretariat will prepare separate documents for submission and adoption by WP.29/AC.1.

3. Version of UN Regulations

The UN Regulations annexed to the 1958 Agreement may be amended according to the provisions of Article 12 of the 1958 Agreement. Such amendments are in general initiated by the Working Party subsidiary of WP.29 and have a technical nature. Technical amendments adopted by the Contracting Parties may result in a new series of amendments (e.g. higher stringency), a Supplement (e.g. clarifications) or a Corrigendum (e.g. editorial corrections). After adoption of the proposed amendment, it is submitted to a notification procedure to the Office of Legal Affairs. After the entry into force of the amendment, the secretariat has to publish it through a pure administrative procedure which may result either in an Amendment (reflecting only the amendments adopted) or a Corrigendum to the UN Regulation concerned or a Revision of the UN Regulation concerned (new consolidated document including the content of the previous revision and all supplements covered within the series of amendments introduced since then) for more detailed information, see the annex to this document and/or the General Guidelines for UN Regulatory Procedures and Transitional Provisions in UN Regulations ECE/TRANS/WP.29/1044/Rev.1).

The new provisions of draft Revision 3 to the 1958 Agreement allow Contracting Parties to grant type approvals pursuant to former versions of UN Regulations. The term "version of a UN Regulation" indicates that a UN Regulation, following its adoption and establishment, may subsequently be amended following the procedures described above.

According to the provisions of Article 1, paragraph 1 of Revision 3 to the 1958 Agreement, *the term "version of a UN Regulation" indicates that a UN Regulation, following its adoption and establishment, may subsequently be amended following the procedures described in this Agreement, in particular Article 12. The unamended UN Regulation as well as the UN Regulation, after integration of subsequent amendment(s), are considered to be separate versions of that UN Regulation.*

At its March 2015 meeting in London, IWVTA clarified Contracting Parties may grant type approvals to only a full version of a UN Regulation (i.e. a series of amendments including all Supplements to that series) or to a specific series of amendments to a UN Regulation (unamended UN Regulation).

The secretariat proposed (in WP.29-164-10) two options for the procedure to be followed when a Contracting Party informs the secretariat about its intention to grant type approvals pursuant to a former version of a UN Regulation, not publically available at the UN website. IWVTA considered that – in such cases - there is no need to prepare consolidated text of the versions of UN Regulations and recommended the following option as the most appropriate procedure:

The secretariat informs the Working Party responsible for the UN Regulation about such an intention of a Contracting Party and make available on the UNECE website, as soon as feasible, all relevant documentation (i.e. Revisions, Amendments and Corrigenda) related to that former version (without consolidation). In the case these documents are only available on micro-fiche or as a paper document, a scanned copy will be made available. The secretariat restructured the current website to make these former versions of UN Regulations available in a user-friendly manner.

In the case of specific interpretation problems coming up with the use of former versions of UN Regulations, Contracting Parties shall use the provisions of Schedule 6 to the 1958 Agreement.

The secretariat is ready to assist WP.29 delegates in the case of general interpretation problems, e.g. assists the Contracting Party in:

- (i) getting access to former standards (e.g. ISO, IEC, SAE) which are no longer publically available but listed in a former version of a UN Regulation (e.g. obsolete or no longer accessible), or*
- (ii) defining the version of a referenced UN Regulation (i.e. dynamic reference) in force at the date of the application of another UN Regulation, in which the dynamic reference appears (on the basis of former version of the status document */343 of the 1958 Agreement).*

In case of any need for technical clarification, the secretariat should consult with the responsible GRs, if necessary.

4. Use of static cross-references within UN Regulations

In the past, a number of cross-references have been introduced in some of the existing UN Regulations. The World Forum endorsed the approach by the Working Party Chairs (see report ECE/TRANS/WP.29/1095, para. 52) to use static or dynamic references to other UN Regulations on a case by case basis. For the purpose of clear references in UN Regulations and the future use of versions of UN Regulations, the secretariat recommends applying the principles of the static cross references to other UN Regulations indicating the level of the series of amendments.

5. Common commencement date

The WP.29 informal group on IWVTA currently develops new UN Regulation No. 0 inserting new provisions for the whole vehicle type approval system, specifying the conditions and listing the series of amendments of each UN Regulation which the type of vehicle has to comply with in order to be type approved as a whole vehicle. IWVTA expressed the need to "trigger" the application date of a new series of amendments and in order to ensure that vehicles, type approved according to UN Regulation No. 0, have to fulfill the same level of stringency. IWVTA suggested providing transitional provisions with a common commencement date (e.g. 1 September of the appropriate year). Thus, UN Regulation No. 0 will also include introductory provisions starting on 1 September. The procedure and the date of entry into force of a new series of amendments will not be affected by this common commencement date and will be triggered by the notification procedure through OLA in the same manner as in the past. Usually Supplements do not have transitional provisions, they should be applied as of their entry into force. However, in the case Supplements include transitional provisions, the application date shall also be triggered on the common commencement date (e.g. 1 September of the appropriate year).

6. Other administrative procedures by UNECE secretariat

UNECE secretariat is clarifying with the Document Management Section (DMS) the feasibility of the following procedures for the publication of UN Regulations:

- (a) Official symbol for new UN Regulations adopted after the entry into force of Revision 3:

Proposal: To simplify the references of ~~the documents~~ the documents, it is proposed to eliminate the double symbols of the documents maintaining the second symbol only. A new UN Regulation No. 140 adopted after the entry into force of Revision 3 will bear the shorter symbol **E/ECE/TRANS/505/Rev.3/Add.139**.

Note: Amendments to existing UN Regulations will continue bearing the double symbols.

- (b) Official symbol for Versions of UN Regulations adopted after the entry into force of Revision 3:

Proposal: To simplify the references of the Versions of UN Regulations, it is proposed to maintaining the given symbol adding an index number defining the Version. For example, a third Version of UN Regulation No. 26 adopted after the entry into force of Revision 3 will bear the symbol **E/ECE/TRANS/324/Rev.1/Add.25-3 - E/ECE/TRANS/505/Rev.1/Add.25-3**.

- (c) Official symbol for the new UN Regulation No. 0 on IWVTA for passenger cars: *Proposal:* Following the forthcoming adoption of UN Regulation No. 0, the document shall bear the symbol either **E/ECE/TRANS/505/Rev.3/Add.0-M1** (if proposal under (a) above is acceptable) or **E/ECE/324/Rev.3/Add.0-M1 – E/ECE/TRANS/505/Rev.3/Add.0-M1**.

Justification: The symbol "0-M1" leave the possibility to WP.29 to adopt in future another set of UN Regulations on IWVTA for other vehicle categories such as heavy duty vehicles, motorcycles or agricultural tractors bearing the symbol "Add.0-N", "Add.0-L" etc. and using the system of vehicle categorization in accordance with R.E.3, the applicable scope is easily identified

Annex: Current situation of amendment procedures

The UN Regulations annexed to the 1958 Agreement may be amended according to the provisions of Article 12 of the 1958 Agreement. Such amendments may be of technical and/or administrative nature.

1. Technical amendments adopted by the Contracting Parties:

Technical amendments are aimed at adapting the UN Regulations to the progress in technology, to improve vehicles safety and the protection of the environment and to globally harmonize them. They may result in new series of amendments in the case of a higher stringency of the test requirements (i.e. more stringent limit values) or only in Supplements in the case of clarifications to the existing specifications to avoid misinterpretation (excerpt of ECE/TRANS/WP.29/1044/Rev.1), up to the **decisions of the World Forum** and its 6 subsidiary Working Parties:

Series of amendments shall be developed to change the technical requirements that the vehicle types, systems or components shall fulfil as from a certain date, in order to obtain UN type approval, even if the amendments are a minor technical change and do not affect vehicle/component/system/part design drastically. In this procedure, the modification of the approval marking is necessary to differentiate the new approvals to the amended UN Regulation (hereinafter referred to as "the new approvals") from the existing approvals to the preceding amendments or unamended UN Regulation (hereinafter referred to as "the existing approvals").

The new series of amendments may contain a transitional provision on the conditions for granting extensions to existing approvals (i.e. in the case of slight modifications to an existing vehicle type, without affecting the basic definition of type). Furthermore, the new series of amendments may contain a transitional provision for Contracting Parties, whose application of the UN Regulation comes into force after the date of entry into force of the amendments, indicating that such Contracting Parties are not obliged to accept the existing approvals.

A Supplement addresses an amendment to a UN Regulation which does not entail a modification in the approval marking and is normally used for (a) Clarifying test procedures, not imposing new requirements, or (b) Taking into account of new developments which have arisen after the adoption of a UN Regulation (i.e. extension of scope).

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 approvals 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.

A Corrigendum consists of corrections (i.e. bringing into order of one or several errors, e.g. correction of linguistic errors or involuntary omissions) to previously adopted UN Regulations and amendments and is normally used to avoid different interpretations. Corrigenda are deemed to enter into force ab initio, whereby the date of entry into force is the date of adoption by the Administrative Committee AC.1. Further instructions for preparing Corrigenda to UN Regulations are reproduced in Annex 3 to

ECE/TRANS/WP.29/1044/Rev.1.

At its November 2011 session (see report ECE/TRANS/WP.29/1093, para. 19), WP.29 noted that OLA had informed the secretariat that Corrigenda should aim at correcting, without modifying the meaning or substance of the text of the treaty:

- (a) *physical errors* on typing, printing, spelling ... ,
- (b) *lack of conformity* of the treaty with the official records, and/or
- (c) *lack of concordance* between the texts of the different authentic *languages*.

OLA had indicated that the depositary has the responsibility to scrutinize each apparent error in order to determine whether it does fall into one of the above categories and that it does not have the effect of modifying the meaning or substance of the text of the treaty. OLA had noted that some of the corrections submitted did not necessarily represent "corrections of errors", but rather affect the substance of the text. WP.29 recommended that careful attention should be made to ensure that the Corrigenda adopted in the framework of the Agreements respond to the criteria expressed by OLA.

2. Administrative amendments initiated by the secretariat:

Following the adoption by WP.29 of a technical amendment to a UN Regulation, the secretariat proceeds with its administrative tasks to prepare a document with an official symbol of the amendment, which is expected to be published shortly after the date of entry into force of the corresponding amendment.

Each UN Regulation is issued as a separate addendum to the 1958 Agreement. As UN Regulations Nos. 1 and 2 were combined in one document and became Addendum 1 to the Agreement, the following UN Regulations carry an addendum number equal to the number of the UN Regulation minus one (see status document ECE/TRANS/WP.29/343/Rev.23, section 2 of the explanatory notes).

Depending on the extent of the amendment to a UN Regulation, the **secretariat may decide** to prepare such a document either as a revision (a consolidated document including the necessary amendments and corrections – voted by AC.2 - to provide for a consistent document), an amendment (in the case of supplements to the regulation), or as a corrigendum (corrections) to the UN Regulation. In this respect, the document will bear the official symbol E/ECE/324/Add.XX/... or E/ECE/TRANS/505/Add.XX/... with the following extension:

- (a) .../Amend.X = An Amendment issued as a supplement to the text of the UN Regulation in force or a new series of amendments to the UN Regulation comprising the change of the approval marks.
- (b) .../Rev.X = A Revision of the text comprising all previous text(s) of the UN Regulation in force (as a consolidated text).
- (c) .../Corr.X = A Corrigendum consists of editorial corrections of errors in the issued texts. As from 1969 the corrections are deemed made ab initio, the "date of entry into force" indicates the date of circulation by the Depositary, or - as from 16 October 1992 - the date of adoption by WP.29; after 16 October 1995 the date of adoption by the Administrative Committee AC.1.

Upon request by the WP:29 Secretary, OLA confirmed that the only legal binding texts of regulations, their supplements or corrigenda are those authentic texts that have been approved by WP.29/AC.1 and that are referred to in the Depositary Notifications. These texts bear the symbol ECE/TRANS/WP.29/... . Therefore official documents bearing the official symbol E/ECE/324/Add.XX/... or E/ECE/TRANS/505/Add.XX/... will have a disclaimer with a reference to the authentic texts.
