

## **General questions related to the scope of UNECE Regulations**

Transmitted by the expert from Hungary

1. This document amends informal document WP.29-144-13.
- 2.
3. First of all an important question should be answered: who is in priority position applying the UNECE Regulations, the Contracting Parties (CP-s) or the manufacturers. Theoretically three cases are possible:

Case I.       The CP-s (Authorities);  
Case II.       The CP-s and the manufacturers are in equal position;  
Case III.      The manufacturers.

- In general, Case I. is valid. The CP-s sign the Agreement, the CP-s decide to accept and apply (or not) the individual regulations, the CP-s approve the vehicles (systems, parts), the CP-s accept – on the basis of the agreed reciprocal recognition – partners approvals, the CP-s establish new regulations or modify the old ones, etc.
  - In special situations – but only in the frame of the Agreement – Case II could be also valid. The manufacturers may participate by advising the CP-s in establishing new regulations, they may choose among the options (given in certain regulation) of test methods or requirements, they may perform the approval test together with the Technical Services, etc.
  - Case III. is not in line with the Agreement. The manufacturers alone may not extend the scope of a regulation.
4. The second essential question is the more specific (MS) type scope of a regulation which can be the following:

“Scope

1. This regulation applies to Class 1 and Class 2 of Category A.
2. At the request of the manufacturer, this Regulation may also apply to other Classes than Class 1 or 2 of Category A, so Class 3, 4 and 5 too”.

What is the legal content of this scope, what is covered by this formula? The answer is difficult, because the legal content is not clear, but unambiguous. Three options are possible, but non of them is completely covered by the text:

- Option 1: the scope covers only Class 1 and 2.
- Option 2: the scope covers all Classes (1, 2, 3, 4 and 5)

- Option 3: the scope covers all Classes, but their obligatory use is different.

If Option 1 is valid, the consequences are the following:

- The CP-s have to apply the regulation obligatory in their country for Class 1 and 2;
- The CP-s have to accept mutually their approvals for Class 1 and 2.
- The CP-s may have national (or local) requirements, test methods for the other Classes (3, 4 and 5)
- In this case any “approval” of Class 3, 4 and 5 (made by the manufacturer or other CP) does not have legal meaning.

Therefore the second paragraph of the scope should be deleted.

If Option 2 is valid, the consequences are the following

- The CP-s have to apply the regulation obligatory in their country for all Classes (1, 2, 3, 4 and 5).
- The CP-s have to accept mutually their approvals for all Classes.
- The CP-s must not have national (or local) requirements, test methods for all Classes.

In this case it would be necessary to reformulate the scope, saying clearly that it applies to all Classes.

If Option 3 is valid, the consequences should be the following:

- The CP-s commonly decide (when formulating the scope) that it is obligatory for Class 1 and 2 in every CP-s country and optional for Class 3, 4 and 5.
- The CP-s may decide individually that they apply (or not) in their country the regulation for Class 3, 4 and 5).
- The CP-s must not have national (or local) requirements, test methods for Class 3, 4 and 5.
- The CP-s have to accept the approvals for Class 3, 4 and 5 made by an other CP, whether they apply or not the regulation of these Classes.

In this case it would be necessary to reformulate the scope saying clearly that the optional application of the regulation for Class 3, 4 and 5 is the discretion of the CP-s.

The optional application of the regulation for certain Classes is understandable and acceptable, because:

- The weight and the rate of certain Classes in the legislation of the individual CP-s could be rather different.
- The operational circumstances of certain Classes could be different in different countries.
- The role of different Classes in the international traffic and transportation could be different.
- Etc.

5. Both the CP-s and the manufacturers have common interest in the future taken into account the globalised production and commerce in the vehicle industry as well as the international road traffic and transportation:

- To extend and increase the sphere of authority of international (UNECE) regulations.

- To reduce the sphere of authority of national (local) regulations.

This common effort is supported and helped – among others – by the 1958 Geneva Agreement, giving to the CP-s priority position in the application of UNECE regulations. (The situation is different in other international standardization organization e.g. in ISO).

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