

European Commission comments to GRRF-71-16 (OICA proposal for amendment to ECE/TRANS/WP.29/2011/93 (01 series of amendments to the draft Regulation on AEBS))

The OICA proposal proposes draft transitional provisions for the 01 series of amendments to the draft Regulation on AEBS (document TRANS/WP.29/2011/93).

The European Commission considers that this proposal is not appropriate as it does not respect the outcome of the discussions and the agreement of the informal group on AEBS/LDWS at its 14th session held from 9 to 11 May 2011, neither the decisions taken by GRRF at its 70th session, as explained below:

- 1) OICA proposes to re-introduce the provisions of § 12.1, despite the fact that the informal group on AEBS/LDWS agreed at its 14th session to delete them. This agreement has been reflected in document AEBS/LDWS-14-18 as follows: "In view of the outcome of the debate, the Chair suggested deleting the original proposed paragraph 12.1. All Contracting Parties agreed with the deletion of the paragraph. Conclusion: paragraph 12.1". This agreement has been reflected in documents GRRF-70-06, ECE/TRANS/WP.29/GRRF/70 (Annex II) and ECE/TRANS/WP.29/2011/93, by means of a strikethrough of the text of § 12.1.

The European Commission considers that there is no justification to ignore the agreement of the informal group on this issue and therefore invites GRRF to endorse the agreement within the informal group by deleting § 12.1 as reflected in documents GRRF-70-06, ECE/TRANS/WP.29/GRRF/70 (Annex II) and ECE/TRANS/WP.29/2011/93.

- 2) The OICA proposal contains a new § 12.2 for the transitional provisions, which is based upon - but changing - the standard provisions of paragraph V2 of document TRANS/WP.29/1044 (General Guidelines for UNECE Regulatory Procedures and transitional provisions in UNECE Regulations). Such a provision has never been discussed within the informal group on AEBS/LDWS and the original proposal by OICA for transitional provisions as submitted to the informal group in document AEBS/LDWS-14-15 did not contain such provision either.

The European Commission considers it is not appropriate to propose to GRRF such a new provision without having it discussed first within the informal group. In addition, the standard formulation for the transitional provisions of paragraph V.2 which start with "as from ... months after the entry into force..." has been changed by OICA to read "As from 1 November 2016 ...". As a consequence of this change there no longer a link between the entry into force date and the date by which Contracting Parties are obliged to only grant type-approvals for types that meet the requirements of the 01 series of amendments. In addition, by stipulating the date of 1 November 2016, OICA ignores the fact that as an outcome of the discussions in the informal group on AEBS/LDWS and GRRF on the application date for the 01 series of amendments of the draft AEBS Regulation, the date of 1 November 2012 has been proposed as an alternative to the date of 1 November 2016.

The European Commission invites GRRF to consider in its discussion on this proposal for a new § 12.2 whether it is appropriate to have such a provision to accompany the transition to the 01 series of amendments for the draft Regulation on AEBS, and to take into account that as an alternative to the date of 1 November 2016, the informal group has also indicated the possibility to advance this date to 1 November 2012, for the reasons explained in document AEBS/LDWS-14-08 (see section 6.2 under the heading "Paragraph 12.5").

In addition, the European Commission considers that in proposing this new transitional provision in §12.2, OICA precludes the possibility for Contracting Parties to continue applying the 00 series of amendments after the proposed date of 1 November 2016. In this context GRRF is invited to consider also the comments related to point 3 below, relating to paragraph 12.3 of the OICA proposal.

- 3) The OICA proposal for § 12.3 is a modified version of § 12.2 in documents GRRF-70-06, ECE/TRANS/WP.29/GRRF/70 (Annex II) and ECE/TRANS/WP.29/2011/93. In considering this particular proposal GRRF is invited to take note of the position of Contracting Parties within the informal group on AEBS/LDWS: several Contracting Parties suggested (Germany, European Commission) or indicated that they could accept (Japan, Russian Federation) the deletion of § 12.2, whilst the Netherlands and France were in favour of maintaining this paragraph. (see document AEBS/LDWS-14-18, section 6.2 under the heading "paragraph 12.2").

In addition, the modifications proposed by OICA in relation to this paragraph have as a result that the rights of Contracting Parties to continue applying the 00 series of amendments are restricted, as these rights would be limited to extensions of approvals, and not apply for new approvals. Such an approach would go against the wish of

Contracting Parties, such as Japan, wishing to avoid granting ECE approvals to the 01 series of amendments (see document AEBS/LDWS-14-18, section 6.2 under the heading "paragraph 12.3").

In view of the above, the European Commission invites GRRF to carefully consider the possible (unwanted) consequences of introducing the transitional provisions of § 12.3 as proposed by OICA.

- 3) The OICA proposal for § 12.3 is a modified version of § 12.5 in documents GRRF-70-06, ECE/TRANS/WP.29/GRRF/70 (Annex II) and ECE/TRANS/WP.29/2011/93. The modification proposed by OICA consists of deleting the square brackets around the date of 1 November 2016, and the deletion of the alternative date of 1 November 2012.

GRRF is invited to take note of the positions of Contracting Parties within the informal group on AEBS/LDWS in relation to § 12.5 in documents GRRF-70-06, ECE/TRANS/WP.29/GRRF/70 (Annex II) and ECE/TRANS/WP.29/2011/93, as recorded in document AEBS/LDWS-14-08 (section 6.2 under the heading "paragraph 12.5"): Contracting Parties either requested to delete this paragraph (Germany), to have it rephrased (Russian Federation), to provide clarification as from when the 00 series of amendments would collapse (Japan), or to advance the date of 1 November 2016 to 1 November 2012 to take account of the limited increase of stringency the 01 series of amendments would entail compared to the 00 series of amendments (European Commission).

In this context, it is important to recall that the discussions in GRRF at its 70th session did not result in achieving consensus on the scope of the draft Regulation on AEBS, neither on all the pass/fail values to be specified for the warning and activation test requirements, and this both for the 00 series of amendments and the 01 series of amendments. The European Commission is of the opinion that a reasoned discussion and decision on the date as from which Contracting Parties would no longer have to accept approvals issued in accordance with the 00 series of amendments, can only take place when agreement is reached about all the pass/fail values for the warning and activation tests requirements for the 00 and 01 series of amendments, as well as with regard to their scope of application. As long as such agreement is not reached, any discussion and decision on this date would be fully arbitrary as it would not take into account the impact any increase in the stringency of the requirements introduced by the 01 series of amendments would entail, nor the final scope of application.

- 4) Finally, and on a more general level, the European Commission recalls that at its 70th session GRRF could not reach a decision on the transitional provisions as a whole, and agreed to send the draft transitional provisions contained in GRRF-70-06 (as reproduced in Annex II of ECE/TRANS/WP.29/GRRF70) for final decision by WP.29 at its November 2011 session.

Taking into account this GRRF decision, as well as the need to address the outstanding issues relating to the scope of the draft Regulation on AEBS and to the pass/fail values for the warning and activation test requirements both for the 00 and 01 series of amendments, the European Commission considers that GRRF at its 71st session should endeavour to give priority to solving these outstanding issues, so that WP.29 in November 2011 can arrive at a reasoned decision on the transitional provisions, taking duly into account the difference in stringency and scope of the 00 series and 01 series of amendments for the draft Regulation on AEBS.
