

Exchange of communications between the secretariat and OLA on the simplification of lighting and light-signalling Regulations (SLR)

A. Communication of the secretariat to OLA of 6 June 2016

You will certainly recall our last year's exchange on the topic of simplification of lighting and light-signalling Regulations (SLR) annexed to the 1958 Agreement. Taking into account your views, the UNECE Working Party on Lighting and Light-Signalling (GRE) decided not to pursue drafting of a new part B of Regulation No. 48 or a new Resolution. Instead, GRE agreed on an alternative approach, as outlined below, and requested the secretariat to seek your advice.

New approach to SLR

GRE proposed to consolidate around 30 Regulations on different individual lighting and light-signalling devices (lamps) into three new Regulations. Each new Regulation will cover a group of similar devices. For example, all signalling devices will be combined into a single new Regulation. This approach is based on the following:

- a. The new Regulations will contain all provisions and operate within the spirit of the existing structure of series of amendments, their supplements and transitional provisions;
- b. The new Regulations will define the requirements for devices and within each Regulation there will be a number of devices, identified by their symbols, with administrative provisions and common and specific technical provisions;
- c. The transitional provisions associated with a new series of amendments to the Regulations will be identified for each device as applicable;
- d. All the current Regulations will remain live and available for new type approvals for an appropriate transitional period until the new consolidated Regulations have entered into force. After this transitional period, the current Regulations will be "frozen" insofar as they will not be subject to further amendments and no new type approvals will be granted based on these Regulations, only extensions of existing approvals. In the past, the same approach was already followed in the case of Regulations 1, 2, 5, 8, 20, 31, etc. (see the section "Transitional provisions"). Upon entry into force of Revision 3 of the 1958 Agreement, the "frozen" Regulations will become "versions of Regulations" as defined in the Revised 1958 Agreement.

Questions to OLA

1. Do you see any legal issues or inconsistencies in the proposed approach?
2. Concerning the adoption and entry into force of the three new Regulations, could you please confirm that the legal procedure of Article 1, paragraphs 2-4 of the 1958 Agreement would apply?
3. Each new Regulation will cover a number of individual devices (lamps). The Contracting Parties may agree that some devices will be mandatory while others will be optional. An "optional device" means a device, the installation of which is left to the discretion of the manufacturer. This approach was already followed in some Regulations, for example, in Regulation No. 48. Whatever optional devices are selected by the manufacturer, the Type Approval Authorities cannot reject type approval solely based on the fact that, in their view, the selection of optional devices is not correct. With or without optional devices, type approvals are mutually recognized in all Contracting Parties applying a given Regulation.

Do you think that a similar concept of "mandatory/optional" devices could work not for the manufacturers, but for the Contracting Parties applying a new Regulation? In other words, can the Contracting Parties decide on their own individual selections within the same

Regulation which devices are mandatory and which ones are optional for type approvals in their countries? It could be argued that this concept might lead to non-harmonized application of the Regulation and discrimination between type approvals granted in different Contracting Parties.

C. Reply from OLA of 17 June 2016

We have carefully reviewed your request below for advice regarding the GRE proposal to consolidate about 30 Regulations on different individual lighting and light-signalling devices into three new Regulations, each of which would cover a group of similar devices.

Unfortunately, we are not in a position to provide answers to the questions that you ask. These questions raise a number of complicated technical and legal matters, which we are unable to properly assess from here, not having the necessary technical knowledge on the substantive matters governed by the Regulations nor having been privy of the discussions in the GRE. While your email is (as usual) very clear, a proper assessment of the possible legal issues or inconsistencies raised by this proposal would require an in-depth analysis of the various regulations concerned and the proposed new regulations that are on the table, in light of the Convention, as well as legal advice throughout the GRE process, all of which does not seem feasible for the Treaty Section to do.

In order to assist you, we may nevertheless offer the following general comments. The status as a party applying either the old (with respect to extensions of approvals only) or the new Regulations should be clear and in accordance with the applicable provisions of the Agreement. In this respect, the GRE seems to be taking care of this issue by establishing that affected old Regulations will remain applicable for new type approvals until the entry into force of the corresponding new consolidated Regulation. The GRE also seems to take care of regulating that following the entry into force of the new Regulations, the relevant old Regulations will be not be applicable ("frozen") insofar as they will not be subject to further amendments and no new type approvals will be granted based on these Regulations, only extensions of existing approvals. You explained that, in the past, the same approach was followed in the case of other Regulations which, upon entry into force of Revision 3 of the 1958 Agreement, will become "versions of Regulations" as defined in the Revised 1958 Agreement. While, based on the information provided and taking into consideration our limited technical knowledge, we do not see a problem with this approach, only the secretariat and the GRE can assess whether there are other implementation issues that should be borne in mind at this stage.

With respect to the question of determination of mandatory or optional (left to the discretion of the manufacturer) devices, this is again a technical question which should be decided and regulated by the parties. It seems indeed strange however that parties decide "on their own" which devices are mandatory and which ones are optional for type approvals in their countries.

D. Considerations of WP.29 at its June 2016 session

The Chair of GRE introduced a new staged approach and timeline for the simplification of the lighting and light-signalling Regulations in the period of 2016-2019 (WP.29-169-04-Rev.1). He explained that Stage 1 would include consolidation and freeze of the existing Regulations and their gradual replacement by three new Regulations on road illumination devices, light-signalling devices and retro-reflective devices. Stage 2 would include further amending of the three new Regulations and Regulation No. 48 to introduce technologically neutral and performance-based requirements. WP.29 endorsed the proposed approach and extended the mandate of the Informal Working Group "Simplification of the Lighting and Light-Signalling Regulations" until 2018 (ECE/TRANS/WP.29/1123, para. 44).