

## **Global Technical Regulations and Performance Requirements**

### **For the consideration of WP29 and AC.3**

Transmitted by the  
Federation of European Motorcyclists' Associations (FEMA) with the support of the American  
Motorcyclists' Association (AMA) and the Motorcycle Riders' Foundation (MRF) of  
the United States of America and the Fédération Internationale de Motocyclisme (FIM).

#### **Introduction**

This Informal Document has been prepared by the representative organisations of motorcycle riders in the light of developments regarding the creation of a World Motorcycle Test Cycle (WMTC) by GRPE and its working groups.

It particularly addresses the question of whether a Global Technical Regulation (GTR) must contain performance requirements or, put the other way, whether a test method without performance requirements can become a GTR in its own right.

The Informal Document will examine the issue firstly from the position of rights and requirements of the 1998 Agreement concerning the establishing of Global Technical Regulations for wheeled vehicles. It will then consider how the global harmonisation of vehicle technical regulations could be influenced by whatever AC.3 may decide on this question.

The transmitting organisations wish to clearly state that we support the 1998 Agreement and its objective of harmonising the technical regulations that a motorcycle must meet, before we can buy and ride it. However we strongly believe that a flexible approach is necessary. In arguing that the 1998 Agreement does allow for test methods to become GTRs without performance requirements, we would not want it to be understood that we are in favour of that approach applying in all instances.

#### **The provisions and requirements of the 1998 Agreement**

It must be recognised that not only is the 1998 Agreement a new Treaty but that it is breaking new ground. It is dealing with issues for which there are not direct or clear precedents. As such we believe that it is in everyone's best interest to have a permissive rather than restrictive attitude to the requirements for GTRs.

The key question is whether the 1998 Agreement permits, or put another way, does not prohibit the establishment of GTRs, which are in themselves test methods and do not contain specified performance requirements or limit values. Hereinafter we refer to them as Test Method GTRs.

We believe that it does not prohibit Test Method GTRs. In the Preamble to the 1998 Agreement, the tenth paragraph states:

*“RECOGNISING the interest and expertise in different geographic regions regarding safety, environmental, energy and anti-theft problems, and the value of that interest and expertise in developing global technical regulations to aid in achieving those improvements and in minimising divergences;*

This clearly identifies that an objective of the 1998 Agreement is to minimise divergences and, as such, the Agreement does not require their elimination. It recognises that there can be and will be divergences. This paragraph, in its reference to divergences, is not addressing the principle of allowing variations to meet particular circumstances in developing countries, as that is referred to in the following paragraph.

Having read the 1998 Agreement carefully we cannot see any part of it that specifically states that a GTR must contain performance requirements, or put another way, that a test method which does not contain performance requirements cannot become a GTR.

We understand that it is being argued that Article 4's Criteria for Technical Regulations implicitly prohibit Test method GTRs. We do not accept this interpretation and contend that if it were the intention of the 1998 Agreement to proscribe Test Method GTRs, then this is a principle of such importance that it would be a specific prohibition and not an implicit one.

The 1998 Agreement refers in many Articles to performance characteristics, levels of stringency and performance and to the requirement for them within a GTR. It clearly states that a GTR that establishes specific performance requirements must also contain the test method by which they are evaluated. It does not say that the reverse also applies, namely that a test method must specify performance requirements.

The question of whether the 1998 Agreement allows for Test Method GTRs should also be looked at in another way. That is: can a test method in itself, whilst not specifying performance limit values, such as the permitted number of grams of hydrocarbons per kilometer, meet the requirements for stringency and performance referred to in the 1998 Agreement?

If the WMTC is taken as an example, the answer is that it most certainly can. The WMTC's demands on a motorcycle's performance, for example in terms of acceleration and deceleration, when its exhaust emissions are being measured, are far more stringent than any other motorcycle test cycle currently being used in the world.

For these reasons we would ask WP.29 and AC.3 to agree that the 1998 Agreement does allow for a test method, such as the WMTC, to be established as a GTR through the requirements and procedures of Articles 5, 6 and 7.

### **Aiding the Global Harmonisation process with Test Method GTRs**

In considering whether or not a test method without performance requirements can become a GTR, we believe that WP.29 and AC.3 should look at aspects other than the letter and spirit of the 1998 Agreement.

Firstly there are considerations regarding complexity and transparency. The process of globally harmonising vehicle technical regulations will be a long and complex procedure. Whilst by definition it is work that will be undertaken by technical experts, that work will be of considerable interest and importance to non-technical experts. Legislators, politicians, consumers and users, safety specialists and environmentalists will all want to be involved in the process.

In some instances, particularly where there are environmental considerations, a limited, or a stepped or phased approach will greatly assist the process. Such an approach should not be denied because it has been decided that the 1998 Agreement demands that a harmonised test procedure can only be established with performance requirements included. Not only will this result in the complexity of the process significantly increasing. It will also lead to a loss of transparency, in terms of the non-technical experts' understanding of the process and their ability to make a meaningful contribution.

Secondly there is the question of the effect of insisting that a globally harmonised test method must contain performance requirements upon the attitude of citizens around the world to the global harmonisation process. This is also particularly important when the GTR addresses an issue with environmental implications.

The WMTC is a very good illustration of this point. Motorcycle riders, as citizens and road users, are generally supportive of the global harmonisation process. We understand that through the WMTC our machines, when their emissions are being measured, will be required to perform in a realistic, more demanding way. That will show the true extent of the pollutants in their exhaust emissions. As citizens we welcome the environmental benefits of cleaner motorcycles and as consumers we are prepared to meet the inevitable increase in costs.

Then, when all motorcycles in all markets are being tested to the same method, we will then be able to have a meaningful debate about the benefits of harmonising performance requirements and the appropriate performance level at which limit values should be set.

The consequences of coming to terms with a harmonised test method at the same time as being required to accept harmonised, most likely stricter, performance requirements (always a very politically-charged issue), must give cause for concern. The potential for errors and misjudgments, and the likelihood of misunderstandings and unnecessary opposition, will inevitably be greater.

Thirdly there is the matter of the relationship between national authorities and their democratic institutions. Again this is particularly sensitive in the area of environmental issues. No national elected legislature or, in the case of Europe, international elected legislature, will be relaxed about surrendering competency to another forum, even if at the end of the process they are given the opportunity to accept or reject the outcome.

If the global harmonisation of vehicle regulations is going to work, then legislatures will have to come to terms with a loss of competency. This, however, will only happen if the global harmonisation process itself adopts a measured, sometimes staged approach. Again transparency and involvement of stakeholders in the decisions taken in the harmonisation process will be crucial, if that process is to succeed.

To say to the European Parliament or to the United States Senate and House of Representatives, that they should no longer determine the levels to which vehicles can pollute, will be questioned. To say that they no longer have competency, and this is because the 1998 Agreement, when establishing a harmonised test method, requires that performance procedures be specified will, we believe, result in resentment and resistance from our elected representatives.

## **In conclusion**

In concluding this Informal document we would ask WP.29 and AC.3 to confirm that the 1998 Agreement concerning the establishing of Global Technical Regulations for wheeled vehicles, does not preclude the establishment of Global Technical Regulations containing test methods that do not have performance requirements.

We would request that the advantages in taking a measured, phased and transparent approach, by establishing, where and when appropriate, GTRs that are test methods without performance requirements, are recognised and endorsed by WP.29 and AC.3

We believe that such decisions will support and encourage the global harmonisation process and, in the medium to long term, expedite and ensure its success.

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