

GENERAL QUESTION RELATED TO THE SCOPES OF ECE REGULATIONS

1. Background

- 1.1. Two different approaches may be found – mainly in the last decade – when formulating the scope of an ECE regulation. The older, more traditional approach will be called in this document as “more general” (MG) approach or philosophy and the newer one is called “more specific” (MS) one. (Examples for the MS formula may be found in R.116, R.66.01, etc.)
- 1.2. Definitions used in this document:
 - Category means a large group of vehicles, like cars, or buses, or trucks, special vehicles, etc. (Category A, B, ... etc.)
 - Class means certain sub-groups in a category, like city buses, tourist coaches, small buses, etc. (Class 1, 2 .. etc.)

2. The two different philosophies.

- 2.1. The two different approaches are shown below in a very simplified way, (the scope covers only one category) concentrating on the main differences. The scopes in both cases have:
 - Main specification which specifies the category, or classes covered by the regulation.
 - Exceptions (whether in footnote or in sub-paragraph) which specifies the special use of the regulation in special classes.
- 2.2. The scope in case MG
 - Main specification: the Regulation applies to Category A.
 - Exception: The Contracting Parties (CP) may not require the application for Class 1 and/or Class 2 in their country. (Remark: these classes shall be agreed by the CP-s recognising that the circumstances of the use of these classes could be different in certain countries)
- 2.3. The scope in case MS
 - Main specification: the Regulation applies to Class 4, and 5, of Category A.
 - Exception: at the request of the manufacturer, this Regulation may also apply to other Classes than Class 4 and 5..
- 2.4. The scope of many regulations covers more than one category, but the question raised in this document is the same in these cases, too.

3. The question on general level.

3.1. Comparing the two solutions in question Table 1 shows the situation

Table 1.

	Scope MG	Scope MS
Main specification	More general scope, it covers all the possible classes belonging to the category	Reduced content, more classes are not covered by the scope in the category
Exceptions, digressions	The CP-s are allowed to restrict the obligatory use of the Regulation to certain categories in their countries This is restrictive exception	The manufacturers are allowed to apply the Regulation to classes which are not covered by the scope and CP-s have to accept this extension This is extensive exception

The question is, whether both approaches, both philosophies are in line with the 1958 Geneva Agreement?

3.2. The 1958 Geneva Agreement describes the following:

- Who may become Contracting Party (CP)? Countries, regional integrations set up by countries, etc., (Article 6), but manufacturers, their organizations may not be CP-s.
- Every Regulation shall cover the following:
 - wheeled vehicles, equipment or parts concerned this is the (Scope)
 - technical requirements
 - test methods ... etc. (Article 1, para.2.)

Studying these items the CP-s can decide to apply the regulation or not in their countries.

- An approved type of vehicle, equipment or part covered by the Regulation shall be held to be in conformity with the legislation of all the CP-s applying the said Regulation. (Article 3)
- Every CP may have national legislation, requirements, test methods for those vehicle types (categories), equipments or parts which are not covered by the scope of a Regulation.

3.3. The general approach used in scope MG is:

- The scope is as “wide” as technically can be (where the same requirements and approval tests can be used)
- The CP-s applying the Regulation are allowed to restrict the obligatory use of the Regulation to certain classes in their countries. The Regulation shall state the categories in which the obligatory use may be “suspended”.
- In the “suspended” categories, the CP-s must not use special national legislation, requirements, test methods, etc. The CP-s have to accept – from the viewpoint of national legislation – those vehicle types which are approved according to the Regulation.

3.4. The questions with the MS approach are:

- The specific narrower scope means that the other classes – being out of the scope – are not covered by the Regulation, so the CP-s may have national requirements, test methods, legislation for these classes.
- The possibility of national requirements may cause difficulties in commerce, special national or company requirements may influence the clear competition, tenders, etc.
- It has to be known that it is very easy to produce well prepared national or special requirements, e.g. on the basis of the ECE Regulation (changing the technical requirements specifying new test method, etc.)

- If the manufacturer asks for an approval for a vehicle belonging to a class which is not covered by the scope, who will decide whether the requirements and test methods are appropriate for that class? (Every Technical Service could have different interpretation.) Are the CP-s obliged to accept different interpretations?
- Of course, the manufacturers may carry out any kind of tests on their vehicles, they can make the results public, they can use them in their advertisements, etc. The only thing what they can not (must not) state: that the vehicle is approved on the basis of a Regulation, the scope of which does not cover the class, the tested vehicle belongs to.
- Summarising the essence in Table 2.:

Table 2.

	Scope MG	Scope MS
National requirements, legislation	<u>Not allowed</u> in all classes specified in the scope	<u>Allowed</u> for the classes which are not covered by the scope
Effect on commerce, free competition	<u>No effect</u> , every CP-s have to accept approved vehicle categories, whether the obligatory use is suspended in their countries or not	The possibility of local requirements, test methods <u>may effect</u> the clear competition.

4. Conclusions and question.

- 4.1. Our understanding is that an MS-like scope in a Regulation is not completely in line with the 1958 Geneva Agreement.
- 4.2. The scope of a Regulation should be as wide, as general as possible covering all the vehicle categories, classes (and equipments or parts) which may be covered by the specified requirements and test methods.
- 4.3. If it is necessary to give exception in the scope of a Regulation for the CP-s, it should be restrictive and not extensive.
- 4.4. If the scope of a Regulation does not cover certain vehicle categories or classes, the CP-s may have local, national requirements, test methods or legislation for these categories. As WP.29 pointed out earlier, the CP-s applying a Regulation are bound to recognize all approvals granted on the basis of that Regulation – for those vehicle categories, classes which are covered by the scope of the Regulation. This is the situation in the case of a scope having restrictive exceptions.
- 4.5. Hungary is asking for the opinion and standpoint of WP.29 and the other CP-s whether these conclusions are acceptable, correct or not.
