Small Group report on Annex 5 and the ECE Regulations

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The issue

- ECE Technical Regulations change quickly because of technology (c. 120 per year)
- The Convention and Annex 5 get out of date, e.g. flashing stop lamps
- Drivers in international traffic are being fined for having vehicles meeting ECE Regulations
- The Convention has to be kept in line with the ECE Regulations
The Legal group suggested adding a general phrase to Annex 5 allowing compliance with ECE Regulations to be an alternative.

The problems are:
- Not all requirements are in Annex 5, e.g. lighting in Article 32.
- Not all Convention Signatories have signed the 1958 Agreement (for ECE Regulations.)
- Some CPs do not want to over-ride the drivers control of the vehicle.
- This would be a contradiction (Yakimov.)
The Small Group

- Was established to study the implications of the Legal group proposal
- Members: IMMA, Norway, IRF, WP1 Secretariat
- Experts consulted:
  - OICA, vehicle manufacturers
  - IMMA, motorcycle and 3-wheeler manufacturers
  - GTB, automotive light experts
Drafting issues

- The Convention has to cover all vehicles
- Technical Regulations attached to the Agreements managed by WP29, e.g. the Global and the ECE regulations, are driven by, or drive new technologies
- Best practice tries to avoid cross-references to other legal instruments
Basic questions (1)

1. Does, or should, WP1 have any authority over what technical prescriptions are allowed for new vehicles, i.e. should they be consulted officially by WP29 whenever a proposal will conflict with the Convention?

   The group’s view is that WP29 is autonomous, (so the Convention needs to follow the Regulations).

2. Should the Convention contain all the necessary requirements, or can it contain a cross-reference to another legal instrument?

   The group’s view is that there ought not be a cross-reference, but this might be the most practical solution.
Basic questions (2)

3. If the changes in the technical regulations affect the Convention (Articles and Annex 5), are Contracting Parties ready to make such changes?

The group has no answer to this.

4. What is the most effective way of keeping the text of the Convention up to date?

The options are:

– a general “equivalence” clause, either in the Convention or in a Supplementary Agreement, accepting the Regulations developed by WP29 as an alternative

– constant updating of the Convention (maybe 2 times a year)
Mr Yakimov’s alternative (Informal 1):

- WP29 should draw up a list of specific technical requirements
- Check the WP29 list against the Convention
- Keep the key requirements in the Convention
- Leave the detailed provisions in other documents e.g. ECE Regulations
- Example: must have headlamps (Convention), they can be either ECE R112 or R20.
Comments on the “Yakimov” approach (Informal 1)

- If this means a radical simplification of the Convention’s requirements, it might work.
- However, the Convention already works in this way, e.g. the headlight example.
- The real problems of non-alignment are linked to contradictions in the key requirements, e.g. flashing stop lamps.
- In principle, all differences raise the same legal issues.
A new definition of the problem

- Legally, the best solution is to keep the Convention up to date.
- In practice, this may mean too many amendments to the Convention in a short time period (2 per year?)
- Therefore we need a two-step approach; major updates and a transitional arrangement in between.
Revised proposal

Agree to update the technical requirements every [5] years

For the period between agree to:

“accept the ECE Regulations as an equivalent to the Convention’s provisions for vehicles, provided that they do not take control of the vehicle away from the driver”.
Conclusions

- There are real problems for drivers of modern vehicles in international traffic.
- The Convention is out of date and risks becoming irrelevant for vehicles.
- The correct solution is to keep the Convention up to date, but this is impractical.
- New proposal for a two stage approach:
  - 5 year updates
  - transitional acceptance of ECE regulations