

Treatment of interpretations and supervision of the Technical Services

Working document presented by France

(received through the representative of the United Kingdom)

The credibility of the type approval system and the Regulations annexed to the 1958 Agreement relies upon the transparent application of harmonised standards and the integrity of the Contracting Parties and their Approval Authorities.

Ideally no interpretation should be necessary in the application of these Regulations and it is proposed that new measures be adopted by WP.29 to ensure that only high quality and unambiguous texts are ratified in the future. New measures are also needed to address the on-going problem of interpretation with existing Regulations.

It is proposed that WP.29 actively encourages all Contracting Parties, their Technical Services and the Technical Working Parties to adopt the following guidance in the operation of the type approval system.

A. Interpretation issues

Technical Services make daily interpretations of Regulation texts. In most cases those decisions are soundly based and technically robust but, occasionally, some can be poorly judged. Some interpretations require decisions on borderline issues while others could involve items beyond the scope of the specific Regulation such as new technologies. With the recent rapid development in advanced vehicle systems, the new technology issues could become more significant in the near future. It is recognised, however, that no specific guidance is available to help Authorities reach the robust decisions that we all expect.

An important first step in overcoming these problems is to encourage Approval Authorities to communicate with each other to ensure that Regulations are applied in a consistent and appropriate manner.

A.1 Interpretation Committee

To resolve issues of interpretation between approval Authorities an Interpretation Committee shall be convened under the guidance of WP.29/AC.2 comprising;

- [two] members of WP.29/AC.2,
- the approval Authorities or Contracting Parties involved in the issue,
- the chairperson of the Technical Working Party, [and
- a representative of the UNECE secretariat]

The Committee shall meet only upon the instruction of WP.29/AC.2. It shall rule on requests made to it by Approval Authorities and/or Technical Services taking into account all available information WP.29/AC.2 may issue such instructions after an exchange of correspondence.

A.2 Interpretation prior to approval being granted

When an application for type approval requires the Approval Authority to apply a significant interpretation of the Regulation, they shall actively inform and seek guidance from other Authorities before making decision.

The Authority concerned shall notify the other Authorities contracted to the Regulation of the issue and of their proposed solution, including any supporting information from the manufacturer. Wherever possible this should be via electronic media. A period of [14] days should be allowed for replies.

- The Authority having taken account of any comments received can then issue approvals in accordance with the new interpretation.
- If it is not possible to take a decision regarding the comments received, the Authority shall seek further review by the Interpretation Committee.

A.3 Interpretation anomalies subsequent to approval being granted

In situations where different interpretations exist between Approval Authorities, but subsequent to an approval being issued, then the following procedures shall be followed.

In the first instance the Authorities concerned shall seek to resolve the issue amicably. This will require liaison and for each party to review the procedures used to test and approve the item/system/STU/etc being disputed. The following guidance will be adopted;

- i) in the event of an error being acknowledged by the Approval Authority and/or by the Technical Service, then no further action is needed unless the withdrawal of the approval is necessary.

- ii) where agreement is reached which necessitates a new or different interpretation of existing practice (by either Authority) then this shall be communicated to other Contracting Parties (for that Regulation) as a matter of urgency. The other parties shall have [14] days to comment upon the decision following which the Approval Authority, having taken account of any comments received, can issue approvals in accordance with the new interpretation.

Following the [14] days provision, Contracting Parties may still raise the issue for further discussion at subsequent Technical Working Party meetings.

- iii) where agreement cannot be reached then the Authorities concerned shall seek further review by the Interpretation Committee.

A.4 Procedure for the Interpretation Committee

The Committee having reached a decision the following actions are taken:

A.4.1 Where no amendment to Regulation is necessary

The agreed interpretation shall be implemented in accordance with the procedures contained in paragraph A2 and A3 above. WP.29/AC.2 shall be informed.

A.4.2 Where the issue is not resolved or when amendment to Regulation is necessary

The Committee shall notify without delay other Contracting Parties to the Regulation that the issue has not been resolved. This same notification shall seek their agreement to defer any pending/new approvals until such time as WP.29 approves the new interpretation/amendment or seek their agreement to process an application through the procedure set out in paragraph B.

WP.29/AC.2 shall be informed of progress. Having considered the facts it shall instruct the relevant Technical Working Party to consider the issue as a priority item at its next meeting. It shall instruct the meeting agenda to be amended accordingly.

The interpretation proposed by the Committee shall be transmitted to the Technical Working Party in advance of its meeting. Normal practice for document distribution should be observed but, taking account of the need for urgency, the minimum time for document circulation may be reduced. In these circumstances, however, the Technical Service involved in the disagreements shall assist the secretariat. Where normal administrative practice has not been followed then the Technical Working Party shall take this into account in reaching its decision.

The Technical Working Party shall consider fully any representations received in respect of the Committee's decision. It shall make formal proposals to WP.29 to amend the Regulation following the normal procedures. WP.29/AC.2 will consider the issue as a priority item at its next meeting.

B. New technologies development

When a new technology:

- cannot be taken into account by a Regulation (for example: no appropriate test cycle; substitution of mechanical parts specified in the text by other means; use of a technology which did not exist at the time of the Regulation's drafting); and
- is not sufficiently mature to justify amending the Regulation in a general way,

a Contracting Party may apply for a special amendment to the Regulation that is restricted to a single type of vehicle, equipment or part.

In such a case, the following procedure shall be followed:

The Contracting Party shall submit to the appropriate Technical Working Party a file containing the following elements:

- the reasons why the technologies or concepts in question make the vehicle, equipment or part incompatible with the requirements;
- a description of the safety and environmental considerations concerned and the measures taken;
- a description of the tests, including their results, demonstrating that, by comparison with the requirements from which exemption is sought, at least an equivalent level of safety and environmental protection is assured;
- a document of no more than 1000 words [in its English language form] suitable for annexing to the Regulation, defining the type of vehicle, equipment or part in question and containing a summary of the points above.

The Technical Working Party shall consider the application as a priority item at its first meeting following the application. If the Working Party approves the application then the summary document shall be forwarded to WP.29 and AC.1 for adoption as an amendment under the procedures of Article 12 of the 1958 Agreement. Where appropriate, the adoption decision shall specify whether the amendment is subject to any other restrictions, such as time limits. In all cases, the validity of the approval shall not be less than thirty-six months.

The amendment shall be identified as a supplement to the series of amendments in force at the time and the Contracting Party and the approval number shall be listed in the "Observations" column of the document entitled "Status of the Agreement, of the Annexed Regulations and of amendments thereto".

If the summary document is adopted as an amendment without time limits, an official amendment to the concerned Regulation has to be studied and proposed by the Technical Working Party.

C. "Worst case"

It is accepted that Technical Services will practice "worst casing" i.e. to establish a variant or version specification from the Type specification (which may be a hypothetical variant or version) that, when tested, represents the type to be approved. The decisions taken along with the justification must be recorded in the approval documentation.

D. Clarity of drafting

In order to improve the drafting and presentation of Regulations, each draft of a new Regulation or an amendment to an existing Regulation shall be accompanied by a declaration, signed by the Chairperson [and secretary] of the responsible Technical Working Party and a minimum of two Type Approval Authorities stating that the draft conforms to the "Rules of Drafting and Presentation" adopted by WP.29.

WP.29/AC.2 shall not place drafts on the agenda of AC.1 (for voting) unless such a declaration is available.

E. Technical Services:

In order to ensure that Technical Services operate in a proper and consistent manner, the following requirements shall be met.

- The Technical Service shall undertake or witness, itself, all of the type approval tests and inspections specified in the Regulation, except where the Regulation specifically permits alternative procedures.
- The Technical Service shall comply with the standard: ISO 17025:1999 on general criteria for the operation of testing laboratory (A Technical Service which is officially accredited by a member of the International Laboratory Accreditation Cooperation (ILAC) is recognised as fulfilling with the above requirements).
- The Technical Service may carry out or witness the test using the laboratory of the manufacturer or other organisation. In this case, it shall follow the principles and practices of ISO 17025 that are applicable to the activities and ensure that, for each test and at the time of the test, the test equipment used is appropriate and is properly calibrated. The Technical Service shall be able to demonstrate this to other Authorities or provide a statement confirming this on demand within [14] days.

- If the Technical Service carries out the conformity of production assessment itself, then it shall comply with the following standards:
 - ISO/IEC 17020:1998 on the general criteria for the operation of various types of bodies performing inspection as regards tests and checks related to the conformity of production,
 - ISO/IEC Guide 62:1996 on the criteria for certification bodies operating quality system certification as regards the management system implemented by the manufacturer. (A Technical Service which is officially accredited by a member of the International Accreditation Forum (IAF), with the scope covering vehicle and or vehicle component manufacturing, is recognised as fulfilling the above requirements).
- If the Approval Authority acts as a Technical Service for type approval testing or for conformity of production assessment, then the above requirements must be met by the Approval Authority.

F. Documents

The Approval Authority must ensure that the following is included in the approval documentation:

- A record of the worst case selection and the justification for that selection. This may include information from the manufacturer;
- A record of any significant technical interpretation made, different test methodology applied, or new technology introduced;
- A test report from the Technical Service;
- Information documents from the manufacturer, properly specifying the type being approved;
- A statement of the conformity of production status, stating the basis of the initial assessment (i.e. assessment by the Authority, ISO9000 certification, etc) and the date of the initial assessment;
- The approval certificate.

These documents must be available to other Authorities on demand. The issuing Authority must despatch the requested documents within [14] working days of receiving the request, or provide a written explanation if it cannot comply with the request [and stating a new date to provide the information (shall not exceed 28 days)].

G. Transmission of information:

The WP.29/AC.2 interpretation committee, the implicated Authorities, the implicated people or industries and the working group, through its President or its secretary will have to communicate by electronic mail, at the time of interpretation studies in order to work as efficiently as possible. [Bulletin board].
