

GENERAL QUESTIONS OF THE SCOPES OF ECE VEHICLE REGULATIONS.

(This document supersedes the earlier GRSG - 94 - 7 and GRSG - 94 - 11 documents)

1. Main question

Who is responsible for specifying the scope of ECE regulations, how to determine or modify these scopes?

Simplifying the question, only those regulations are considered in the discussion which cover vehicles (categories, classes of vehicles) In the first step regulations related to vehicle parts and components are out of discussion.

Definitions used in this document:

- Category means large group of vehicles, like cars, or buses, or trucks, or special vehicles, etc. (Category A, B .. etc.)
- Class means certain sub-groups in a category, like city buses, tourist coaches, etc. (Class 1, 2, 3 ... etc.)

2. The 1958 Geneva Agreement

2.1. The Agreement describes in Article 6 who may become Contracting Party (CP): countries, regional integrations set up by countries, etc. but manufacturers, their organizations may not be CP-s.

2.2. The CP-s accepted and signed the Agreement and new CP-s may joint to it.

2.3. The individual technical regulations are parts of the Agreement, are annexed to it. It means that the regulations are determined and signed by the CP-s. The CP-s may decide to accept a regulation or not to apply it.

2.4. Every regulation – among other administrative requirements - shall cover the following technical items (Article 1. para 2.):

- scope (the vehicles to be concerned)
- technical requirements
- test methods

Studying these items every individual CP can decide to apply the regulation – or not – in its country.

2.5. An approved type of vehicle covered by the regulation shall be held to be in conformity with the legislation of all CP-s applying the said regulation (Article 3)

2.6. As the consequence of the Agreement:

- CP-s applying a regulation must not have national (local) regulation, requirements, test methods for those vehicle categories and classes which are covered by the scope of the said regulation.
- CP-s may have national regulation, requirements or test methods for those vehicle categories and classes which are not covered by the scope of a regulation.

3. The structure of a scope

3.1. The scope of a regulation generally may contain the following:

- a) Statement about vehicle categories and classes where the regulation shall be applied
- b) List of vehicle categories or classes where the regulation does not apply
- c) List of vehicle categories where the requirements of the regulation apply only to the extent that they are compatible with their intended use.
- d) List of vehicle categories and classes where the regulation may be used optionally.

3.2. In the first three cases the situation is clear for the CP-s applying the regulation:

- “a” obligatory use
- “b” no use, out of the scope
- “c” obligatory use in a certain (given) extent.

Only the optional use (“d”) could be discussed.

3.3. The optional application of a regulation for certain categories or classes is understandable and acceptable, because:

- the weight and rate of certain classes could be rather different in the road traffic of the individual CP-s.
- the operational circumstances of certain classes could be different in different countries
- the accident situation (statistics) of certain classes or categories could be different in different countries
- the role of different classes or categories could be different in the international traffic and transportation.
- etc.

4. Who is in priority position?

4.1. Who is in priority position in relation to the ECE regulations: the CP-s (Authorities) or the manufacturers? Theoretically three cases are possible:

Case I: the CP-s are in priority position

Case II: they are in equal position

Case III: the manufacturers are in priority position

- 4.2. In general, Case I is valid. The CP-s sign the Agreement, they decide to accept and apply (or not) the individual regulations. The CP-s specify new regulation (including the scope) or modify the old ones, they accept – on the basis of the agreed mutual recognition – partners approvals, etc.
- 4.3. In special situations – but only in the frame of the Agreement – Case II could be valid, too. Manufacturers may participate in establishing new regulation (by advising the CP-s), they may chose among the options (requirements or test methods) given in certain regulations, they may perform the approval test together with the Technical Service, etc.
- 4.4. Case III is not in line with the Agreement, which means that the manufacturers may not decide optional use of a regulation. (See paragraph 2)

5. The legal position of the option in a scope

5.1. Version “A” when the option is specified and used by the CP-s.

5.1.1. The example for this case is:

“Scope

- this regulation applies to Class 1 and Class 2 in Category A.
- the CP-s may decide to apply this regulation to Class 3 in Category A and also to Category B in their country.”

This version was used in the original regulation R.66.00 (but it has been changed in R.66.01 to version “B”).

5.1.2. In this case the legal situation is clear:

- the regulation covers both Category A (with the three classes) and Category B
- the CP-s applying the regulation are obliged to use it to Class 1 and 2 in Category A
- the CP-s may decide to use the regulation (or not) in Class 3 of Category A and Category B, it is their discretion.
- the CP-s applying the regulation must not have national (local) regulation, requirements, test methods for all Categories, Classes covered by the regulation (whether their use is obligatory or optional)
- the manufacturers may approve their vehicles belonging to Class 3 of Category A and to Category B and the CP-s have to accept this approval whether they apply the regulation to these vehicles or not.

5.2. Version “B” when the option may be specified and used by the manufacturers. This version is used in existing regulations (e.g. R.66.01

5.2.1. The example for this case is:

“Scope

- this regulation applies to Class 1 and Class 2 in Category A.

- at the request of the manufacturer this regulation may also apply to Class 3 in Category A and also to Category B.”

This version is used in regulation R.66.01.

5.2.2. The legal content of this scope is not clear, not unambiguous. Theoretically three options may be deduced, but no one of them is completely covered by the text or not in line with the Agreement:

- Option 1: the scope covers only Class 1 and 2 in Category A
- Option 2: the scope covers Class 1, 2 and 3 in Category A and also Category B
- Option 3: the scope covers Category A with the three Classes and also Category B, but their obligatory use is different

5.2.3. If Option 1 is valid, the consequences are the following:

- the CP-s are obliged to apply the regulation in their countries to Class 1 and 2 in Category A
- the CP-s are obliged to accept mutually their approvals for Class 1 and 2 in Category A
- the CP-s may have national (local) requirements test methods for Class 3 in Category A and for Category B.
- in this case any “approval” of Class 3 and Category B (made by the manufacturer or other CP) does not have legal meaning. Therefore the second paragraph for the scope should be deleted.

5.2.4. If Option 2 is valid, the consequences are the following:

- the CP-s have to apply the regulation in their countries for the three Classes in Category A and also for Category B.
- the CP-s have to accept mutually their approvals for the Classes and Categories mentioned above.
- the CP-s must not have national (local) requirements, test methods for these Classes and Categories.
- in this case it would be necessary to reformulate the scope saying clearly that it applies to the three Classes in Category A as well as to Category B.

5.2.5. Option 3 may be valid only when version “A” is used. (See the situation in para. 5.1)

As it was derived above from the Agreement, the manufacturers are not in the position to decide the scope – or part of the scope – of a regulation.

6. Common interest of CP-s and manufacturers.

Considering the globalized production and commerce in the vehicle industry as well as the international cross country road traffic and transport, both the CP-s and the manufacturers have common interest:

- to extend the sphere of authority of international (ECE) regulations,

- to drive back the sphere of authority of national (local) regulations, requirements and test methods
- to have clear situation in the scope (application) of ECE vehicle regulations

7. Proposal

GRSG could advise WP.29 about:

- the general (standard) structure of the scope of a vehicle regulation (see paragraph 3)
- the legal possibility to use options in the scope, being in line with the Agreement. (see paragraph 5.1.)