

Increase of the majority threshold for adopting new UN Regulations and amendments to existing UN Regulations

1. Proposal

- We propose to amend the two-thirds majority threshold for adopting new UN Regulations and amendments to existing UN Regulations to four-fifths.

2. Justification

2.1 Background

- One of the most important objectives of the revision of the 1958 Agreement is to achieve truly global harmonization of regulations and mutual recognition of certification, by making the Agreement more attractive to emerging countries so that they can join it.
- This objective is consistent with the following terms of reference of the informal group on the future direction for harmonization of vehicle regulations under the 1958 agreement (ECE/TRANS/WP.29/1083/Add.1).
 1. The objective of the informal group is to assist the World Forum for the Harmonization of Vehicle Regulations (WP.29) in considering actions on the future direction for the harmonization of vehicle regulations under the 1958 Agreement. This future direction **should aim at fostering the participation of more countries and regional economic integration organizations in the activities of the World Forum and to increase the number of Contracting Parties to the Agreement**, by improving its functioning and reliability, and thus ensuring that it remains the key international framework for the harmonization of technical regulations in the automotive sector.
 2. To fulfil this objective the informal group shall, as a first step, **make an inventory of the elements which it considers should be addressed in a review of the 1958 Agreement**, taking into account contributions by Contracting Parties and non-governmental organizations, and establish a roadmap for addressing these elements as a recommendation to WP.29.
- In the inventory, which was endorsed at 155th WP29 (WP29-155-27 Annex 1, 2011), “Voting procedure for establishing new Regulation or amendment to existing Regulation (Article 5 and 6 of the Appendix 1)” and “Procedure for adoption of established Regulations and amendments to Regulations (Article 1.2 and 12)” were listed as the main elements that were related to the functional improvement to foster the participation of more countries and that were to be addressed in the review of the 1958 Agreement.

2.2 Some views expressed by countries

- The amendment of the majority threshold was also discussed in some meetings in the Asian region and views expressed in the meetings include:
 - Improve the existing voting system for more fairness by increasing the majority vote e.g. 4/5, but not consensus vote
 - Increase the importance of any individual CP
 - Encourage any individual CP to express its opinion
 - The principle of 2/3 majority for establishing the regulation should be reviewed (especially in view of the large number of votes in the EU community).

(3rd Public and Private Joint Forum in Asian Region,
December 2012, Manila, the Philippines)

- At the 162nd WP29, the following general views were reported.

44. The representative of Japan considered an increase of the majority threshold, for example to four-fifths, as essential to attract new Contracting Parties. The representative of Australia supported this request. ... The representative of the United Kingdom underlined the need for evidence that the change in voting thresholds would result in new accessions to the Agreement.

In this respect:

The representative of India at the 162nd WP29 indicated the intention of his Government to consider accession to the revised 1958 Agreement, if the proposed amendments on the voting thresholds and proxy voting were adopted.

- In addition, in the recent 2014 European Commission Progress Report on the 2013 Activities of WP29, it was recognized that agreed changes to the current arrangements could have a beneficial effect;

“...and the possibility to increase this threshold from the current 2/3 majority to a higher ratio. If this matter finds a positive solution, the chances to attract as new contracting parties such important EU partners as India, China, the ASEAN countries and even Brazil would be much higher”.

- Furthermore, the Public and Private Joint Forum in Asian Region in its 5th session held in October 2014 in Da Nang, Vietnam* highlighted the importance of making the 1958 Agreement more attractive by increasing the majority threshold for adopting new UN Regulations and amendments to existing UN Regulations.

** Participating countries: Cambodia, Japan, Korea, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam*

2.3 Discussion

- It could be argued that the two-thirds majority threshold has served the forum well for a number of years.
- However, Regulation making under the Agreement will need an increasingly global perspective in the future and so if possible a higher level of agreement around proposals, as membership of the forum expands and becomes more diverse. While the establishment of regional economic integration organizations has led to greater agreement overall, going forward they could also lessen the ability for individual Contracting Parties to have sufficient influence.
- In addition, more countries are developing sophisticated road safety programs that target particular topics for standards development, in order to deal with specific road safety issues, meaning that they want their voices heard as much as possible in the development of proposals.
- Other proposed changes to the 1958 Agreement will make an increased level of agreement on individual Regulations more important;
 - IWVTA will place greater significance on the content of individual Regulations, as many will become part of an overall vehicle package under (Universal) UN R0 approvals.
 - Contracting Parties will either have to accept amendments to an applied Regulation even if they vote against them or cease applying the Regulation. This would have greater significance where a regulation is included in IWVTA.

(Reference: Majority threshold in other treaties)

- Regarding the majority threshold, Article 12. 2 of the revision 3 of the 1958 Agreement prescribes as follows,

2. *(an extract)* When an amendment to a UN Regulation is adopted, the Secretary-General shall as soon as possible declare the amendment as adopted and binding upon those Contracting Parties applying the UN Regulation.

- In this regard, more than 130 treaties which contain the provisions regarding majority threshold and binding were analyzed and it was found that there are few treaties which prescribe that if an amendment is adopted, it shall enter into force for all countries **including the countries which declare their opposition**. Where this is the case, most of the treaties have higher majority thresholds than two-thirds. The following are examples of such treaties.

- CONVENTION RELATING TO INTERNATIONAL EXHIBITIONS

Article 33 3. *(an extract)* It shall come into force with regard to all Parties on the date on which **four-fifths** of them have notified their acceptance to the Government of the French Republic,

- ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT

Article 121 4. *(an extract)* an amendment shall enter into force for all States Parties one year after instruments of ratification or acceptance have been deposited with the Secretary-General of the United Nations by **seven-eighths** of them.
