

## **Second exchange of communications between the secretariat and OLA on the simplification of lighting and light-signalling Regulations (SLR)**

### **A. Introduction**

The World Forum for Harmonization of Vehicle Regulations (WP.29), at its June 2015 session, considered a first exchange of communications between the secretariat and OLA on the simplification of lighting and light-signalling Regulations (WP.29-166-18) in which OLA had pointed out legal implications of using a new part B of Regulation No. 48 as a Horizontal Reference Document (HRD). WP.29 felt that a new Resolution seemed to be the preferable option for HRD. At the same time, WP.29 requested the secretariat to continue consultations with OLA with the aim to identify any legal issues that might arise if a new Resolution is adopted for the purposes of simplifying lighting and light-signalling Regulations (ECE/TRANS/WP.29/1116, paras. 48 and 49). In line with this request, the secretariat has contacted OLA once again. The second exchange of communications is reproduced below.

### **B. Second communication of the secretariat to OLA**

On behalf of the World Forum for Harmonization of Vehicle Regulations (WP.29), let me thank you and your colleagues once again for the advice provided. Taking into account your views on legal implications of inserting a new part B in Regulation No. 48, WP.29 decided not to pursue this avenue.

WP.29 felt that a new Resolution seemed to be the preferable option for Horizontal Reference Document (HRD). At the same time, WP.29 requested the secretariat to continue our consultations with OLA with the aim to identify any legal issues that might arise if a new Resolution is adopted for the purposes of simplifying lighting and light-signalling Regulations. Thus, your advice in this regard would be appreciated.

Should you believe that a Resolution is not the optimum legal solution, would you also recommend alternatives? In your previous communication you pointed out that a comprehensive solution should preferably be found in the framework of Revision 3 of the 1958 Agreement. I wonder if you could provide more details on how such a general solution could look like.

I thank you so much for your cooperation and look forward to hearing from you.

### **C. Second reply from OLA**

This is in reply to your email below on the simplification of lighting and light-signalling regulations.

In your message, you indicate that WP.29 is considering the adoption of a Resolution on the Horizontal Reference Document and you ask for our advice on any legal issues that might arise if a new Resolution is adopted for the purposes of simplifying lighting and light-signalling Regulations. In this respect, reference is made to our earlier conversation in June of this year when we discussed this matter. As we indicated at the time, under the 1958 Agreement, Regulations can only be amended in accordance with the procedure set out in Article 12 of the Agreement. It follows that a Resolution cannot be employed to amend a Regulation.

You further ask whether we could suggest any possible alternatives to solve the matters arising with respect to the simplification of lighting and light-signalling Regulations,

including the possibility of a comprehensive solution to be found in the framework of Revision 3 of the 1958 Agreement. In this regard, we note that it would be possible to consider adding to the 1958 Agreement, as part of Revision 3, a provision that would foresee a specific procedure applicable in those cases in which the amendment to one Regulation would affect the application of other Regulations. This provision could indicate, for example, that, in the process of amending the former Regulation, it would be possible to specify in the amendment proposal that such amendment has an effect with respect to the application of other Regulations (or specific provisions thereof). It would follow that, although only one Regulation would be amended, the application of other Regulations (or parts thereof) would be affected. In this scenario, the Depositary would only intervene in the procedures of amendment of the first Regulation, while the issues of application of the other Regulations could be settled at the level of WP.29.

Having said this, we should underline that if the Parties decide to follow this course of action, a significant number of legal and practical issues would need to be addressed in detail in the context of Revision 3. Among others, matters to be settled would include the establishment of a clear procedure to identify in which cases the amendment of a Regulation would affect the application of other Regulations (or parts thereof), specific procedural rules regarding the participation in the amendment procedure of the Parties applying such other affected Regulations but not the new amended Regulation, a possible modification of the rules relating to voting in this case, the possibility for Parties applying other affected Regulations to object to the effects of the new amendment on those affected Regulations that they apply in the course of the proceedings at WP.29, etc. It is important that such a provision be carefully drafted with the participation of experts who have knowledge of the technical aspects of Regulations in coordination with legal experts, to ensure that all possible scenarios be considered and that no difficulties with respect to the application of a possible new provision are raised in the future.

On a related point, I would be grateful for your clarification on the following question that has arisen in our discussions on this matter. For us at the Treaty Section, it is difficult to understand how and why certain States may accept to apply secondary regulations on lighting and light-signalling without accepting to apply Regulation 48, which appears to be the principal regulation on the topic. Logically speaking, it would have appeared natural to us that the application of Regulation 48 would constitute a precondition for accepting to apply other more specific regulations on the same topic. This doubt is of course due to our lack of technical expertise on the matters covered by the Regulations and do not alter our advice above, but it would be useful for it to be clarified for us to have a more precise understanding of the concrete issues involved.

We hope this proves helpful and stand ready to provide further advice as needed.

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