

Comments of the secretariat to GRB-58-11 tabled by the expert from IMMA - Proposal for Supplement 1 to the 04 series of amendments to UN Regulation No. 41

I. Proposal

Paragraphs 12.1 to 12.7., amend to read:

- "12.1. As from the official date of entry into force of the 04 series of amendments, no Contracting Party applying this Regulation shall refuse to grant **or refuse to accept type** approvals under this Regulation as amended by the 04 series of amendments.
- 12.2. As from ~~1 January 2014~~ **nine months after the date of entry into force of the 04 series of amendments**, Contracting Parties applying this Regulation shall grant **type** approvals only if the **motor** vehicle type to be approved meets the requirements of this Regulation as amended by the 04 series of amendments.
- 12.3. Contracting Parties applying this Regulation shall not refuse to grant extensions of type approvals for existing types which have been granted according to the preceding series of amendments to this Regulation.
- ~~12.4. Contracting Parties applying this Regulation shall continue to grant approvals to those types of motor cycles which conform to the requirements of this Regulation as amended by the preceding series of amendments until the date in paragraph 12.2.~~
- 12.4. Until 9 months after the date of entry into force of the 04 series of amendments to this Regulation, no Contracting Party applying this Regulation shall refuse national or regional type approval of a vehicle type approved to the preceding series of amendments to this Regulation.**
- ~~12.5. Approvals granted under this Regulation before the entry into force of the 04 series of amendments **date in paragraph 12.2** and all extensions of such approvals, including those granted subsequently under a preceding series of amendments to this Regulation, shall remain valid indefinitely. If the motor cycle type approved under the preceding series of amendments meets the requirements of this Regulation as amended by the 04 series of amendments, the Contracting Party which granted the approval shall so notify the other Contracting Parties applying this Regulation.~~
- 12.5. As from 9 months after the date of entry into force of the 04 series of amendments to this Regulation, Contracting Parties applying this Regulation shall not be obliged to accept, for the purpose of national or regional type approval, a vehicle type approved to the preceding series of amendments to this Regulation.**
- 12.6. Notwithstanding the transitional provisions above, Contracting Parties whose application of this Regulation comes into force after the date of entry into force of the most recent series of amendments are not obliged

to accept type approvals which were granted in accordance with any of the preceding series of amendments to this Regulation are only obliged to accept type approval granted in accordance with the 04 series of amendments.

~~12.7. As from 1 January 2017 Contracting Parties applying this Regulation may refuse first national registration (first entry into service) of a motor cycle which does not meet the requirements of the 04 series of amendments to this Regulation."~~

II. Justification

A. Background

1. The text of GRB-58-11 prepared by the expert from the International Motorcycle Manufacturers Association (IMMA) is aimed at providing clarification to the Transitional Provisions so as to allow for granting of certificates to the previous series of amendments until **December 2013** instead of the date of entry into force of 04 series of amendments: **13 April 2012**.

2. However, the secretariat would like to express concerns about this proposal and the present transitional provisions of Regulation No. 41 that could introduce possible obstacles to the current process of harmonization of transitional provisions throughout all UN Regulations.

B. Issue

2. At the March 2011 session of WP.29, the Administrative Committee of work (AC.2) (see ECE/TRANS/WP.29/1089, para. 11), stated:

"11. WP.29/AC.2 reaffirmed the importance to correctly draft Transitional Provisions especially on the accurate application of the amendments to the Regulations, having in mind the basic principle of the mutual recognition of approvals by all the Contracting Parties applying the concerned Regulation. The Committee recommended that the Chairs of the Working Parties, their experts and the secretariat pay special attention to the transitional provisions. It was also recommended to reproduce the whole text of the transitional provisions when discussing a proposal for amendments to them."

3. At the June 2012 session WP.29 adopted the "General Guidelines for UN Regulatory procedures and transitional provisions in UN Regulations", now document ECE/TRANS/WP.29/1044/Rev.1.

4. Therefore, the secretariat noticed that the current transitional provisions of UN Regulation No. 41, 04 series of amendments, are substantially diverging from these guidelines and contradictory:

(a) The original proposal of the 04 series of amendments, adopted by GRB (ECE/TRANS/WP.29/2011/62) was amended during the June 2011 session of WP.29 by a proposal tabled by the representative from IMMA (WP.29-154-04) and then adopted by AC.1 in the same session of WP.29. The proposal settled dates instead of months referred to the date of entry into force of the 04 series of amendments. The secretariat would suggest introducing months instead of dates to keep consistency with the above mentioned guidelines (in this case it would result in a further allowance of 13 days to grant approval to the preceding series).

(b) Paragraph 12.4. (former) of the current Transitional Provisions, is redundant. As a matter of fact, all type approvals should be granted in conformity with the 04 series of amendments since the date fixed in the previous paragraph 12.2.

(c) Paragraph 12.5. (former), even with the changes proposed by IMMA is contradicting in essence the reciprocal recognition of type approvals among Contracting Parties, introducing nuances of subjectivity and implying that Contracting Parties should indefinitely accept approvals granted according to a preceding series of amendments:

"12.5. Approvals granted under this Regulation before the ~~entry into force of the 04 series of amendments~~ **date in paragraph 12.2** and all extensions of such approvals, including those granted subsequently under a preceding series of amendments to this Regulation, shall remain valid indefinitely. If the motor cycle type approved under the preceding series of amendments meets the requirements of this Regulation as amended by the 04 series of amendments, the Contracting Party which granted the approval shall so notify the other Contracting Parties applying this Regulation."

Therefore it is proposed to replace it with new para. 12.6.

(d) Paragraph 12.6.(former) should be replaced by new paras. 12.4 and 12.5. in line with the above mentioned guidelines.

(e) Paragraph 12.7., shall be deleted. As a basic principle of UN Regulations, the 1958 Agreement is dealing only with type approvals and do not refer to national registration. As a matter of fact any reference of this kind was omitted in ECE/TRANS/WP.29/1044/Rev.1.