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## Economic Commission for Europe

Inland Transport Committee

### Global Forum for Road Traffic Safety

Group of Experts on drafting a new legal instrument on the use of automated vehicles in traffic

Third session

Geneva, 16 May 2022

## Report of the Group of Experts on drafting a new legal instrument on the use of automated vehicles in traffic on its third session

### Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Attendance.....	1-6	2
II. Adoption of the agenda (agenda item 1) .....	7	2
III. Highlights from the March 2022 session of WP.1 (agenda item 2) .....	8	2
IV. Programme of work (agenda item 3).....	9-11	2
V. Substantive activities (agenda item 4).....	12-47	3
VI. Other business (agenda item 5) .....	48	6
VII. Adoption of the list of decisions (agenda item 6).....	49-52	6
VIII. Adoption of the report of the second session (agenda item 7) .....	53	6
IX. Next session (agenda item 8).....	54-58	7
<b>Annex</b>		
I. Statements made by member States .....		8

## **I. Attendance**

1. The Group of Experts (GoE) on drafting a new Legal Instrument on the use of Automated Vehicles in traffic (LIAV) met on 16 May 2022 in Geneva.
2. The meeting was chaired by Ms. B. Rudolph (Germany). Accredited experts from the following countries participated in the work in accordance with para. 10 of the Terms of Reference (ECE/TRANS/2021/6, Annex III): Australia, Austria, Belgium, Brazil, Cambodia, Canada, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Japan, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Russian Federation, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, the United Kingdom of Great Britain and Northern Ireland and the United States of America.
3. Experts from the following non-governmental organizations (NGOs) and academia participated upon invitation by the Chair: European Transport Safety Council (ETSC), International Organization of Motor Vehicle Manufacturers (OICA) and the University of South Carolina.
4. The Chair opened the meeting, which was conducted in a hybrid format, due to the ongoing COVID-19 situation.
5. The Secretary informed the Group that the exception regime due to COVID-19 allowed to meet in a hybrid format with two hours of interpretation in the morning and three hours in the afternoon.
6. Several delegations submitted declarations related to the situation in Ukraine, reproduced in Annex I.

## **II. Adoption of the agenda (agenda item 1)**

*Documentation:* ECE/TRANS/WP.1/GE.3/2022/1

7. The Group of Experts considered the provisional agenda prepared for this session (ECE/TRANS/WP.1/GE.3/2022/1) and adopted it.

## **III. Highlights from the March 2022 session of WP.1 (agenda item 2)**

*Documentation:* ECE/TRANS/WP.1/179

8. The Secretary informed the Group about the highlights of the Global Forum for Road Traffic Safety (WP.1) session in March 2022 having relevance for the Group of Experts. He reported that the Chair of the Group of Experts had provided information about the Group's progress, the adoption of the programme of work (PoW) at the second formal session and the two informal meetings, held in January and March 2022. He further reported that the Chair of WP.1 had suggested the Group to focus on the envisaged structure of the new legal instrument. He referred to the session report ECE/TRANS/WP.1/179, para. 22 for more details and recommended reading the full report as it included other ongoing, important activities related to automated driving. The Group of Experts noted the report from the secretariat.

## **IV. Programme of work (agenda item 3)**

*Documentation:* (ECE/TRANS/WP.1/GE.3/2022/3)

9. The Group noted that the PoW was issued as ECE/TRANS/WP.1/GE.3/2022/3.
10. The expert from Italy, Chair of WP.1, proposed to review the document, as it included the envisaged deadline in May 2022. She pointed out the importance for the Group to know which activities had been achieved so far.

11. The Group agreed to consider this together with agenda item 4 and to hear from the experts from Canada and Sweden on the outcomes of the two informal meetings, which they organized in January and March 2022.

## V. Substantive activities (agenda item 4)

*Documentation:* Informal documents Nos. 1, 2, 3, 4 and 5  
Presentations Nos. 1, 2, 3 and 4

12. The expert from Canada introduced informal document No. 1, submitted by Canada and Sweden, reporting on the outcomes of the two informal meetings of the Group, with around 35 Contracting Parties (CPs) participating. He informed the Group that the work mainly focused on the analysis of question three of the revised survey (see ECE/TRANS/WP.1/GE.3/2021/4, paras 43 and 48). He stated that despite identifying the top road safety risks associated with automated driving, the majority of the Group still did not believe that they had sufficient information at that time to appropriately define these risks and the safety expectations. He explained that therefore Canada and Sweden proposed to define a list of core road safety risks and to develop a series of brief scoping papers on each of these risks as a way forward. He concluded by stating that the survey had provided an effective starting point for item (a) of the PoW, but due to divergent views on how to proceed, this should be further discussed during this session.

13. The expert from Sweden stressed the importance of identifying the relevant road safety risks related to Automated Vehicles (AVs) first, as the new legal instrument should address them.

14. The expert from Italy, Chair of WP.1, asked for clarification of the wording “scoping paper”, mentioned in the informal document No. 1.

15. The expert from Canada detailed the proposal to produce a series of scoping papers aimed at achieving a common understanding about AV road safety risks among CPs. He explained that a scoping paper should briefly describe the priority safety concerns and the corresponding safety objectives, that could be achieved with a legal instrument.

16. The expert from Germany stated that during the informal meetings in January and March 2022, most CPs were fine with focusing on road safety risks but expressed concerns as regards efforts needed to prepare a series of documents. He stressed that the Group should focus on the development of a legal instrument as soon as possible and should not lose time by drafting other papers.

17. The expert from Sweden, noting the legal activities in Germany regarding AVs in traffic, asked whether the expert from Germany could share information on their findings regarding additional road safety risks caused by AVs.

18. The Chair confirmed that Germany already had some regulations in place considering AVs, and that she could follow up on this request bilaterally after the session.

19. The expert from the United States of America stressed the need for further and more detailed discussions about the risks related to AVs in order to reach a common understanding among the CPs. She stated that the Group should focus its discussions on the content of a new legal instrument rather than its format. She also asked the expert from Germany to share the background material that went into the drafting of the German legislation related to AVs, as well as information about the identified risks, that it should cover.

20. The expert from ETSC introduced informal document No. 4, using presentation No. 3. He informed the Group about ETSC’s major concerns on road safety challenges posed by the use of AVs: the lack of commonality in Human Machine Interface, issues such as mode confusion and over-trust, as well as the reliability of driver monitoring systems. He stressed the need to address interactions with vulnerable road users (e.g. motorcyclists). He mentioned traffic related concerns regarding the minimum risk condition (e.g. vehicle stopped in the lane in a live traffic on a highspeed road). He expressed views on remote operation as backup, stating the lack of evidence supporting that such operation can be performed safely. He also

suggested that stakeholders learn from mistakes, and he regretted the lack of data availability. He called for the establishment of a system of robust oversight and investigation.

21. The expert from the United Kingdom and Northern Ireland suggested to include driver availability monitoring systems in the Group's discussion about possible risks and safety aspects.

22. The expert from Austria asked the expert from ETSC if he had been able to draw a conclusion on the aspects that should be covered by a new legal instrument, based on the concerns shown in his presentation. He expressed his assumption that many of the problems listed should rather be addressed on a technical basis and therefore by the World Forum for Harmonization of Vehicle Regulations (WP.29) and its subgroups.

23. The expert from ETSC answered that ETSC had not yet drawn any specific recommendations about the possible content of a legal instrument. He stated that many of the mentioned issues were related to the term "driver" and therefore could be addressed by WP.1.

24. The expert from Germany suggested to focus on finding solutions to the challenges presented and to move forward cautiously and holistically, as it was urgent to define mechanisms that counter the safety challenges identified so far. He highlighted that there was a rapid evolvement of AV technologies, the reason why the Group needed to develop a framework to prepare for a safe future of road traffic without jeopardizing the benefits of new technological innovations.

25. The expert from OICA noted the suggestion from ETSC regarding vulnerable road users and invited the Group to consider in the context of Automated Driving System (ADS) if the general assumption was that other road users were respecting the traffic rules.

26. The expert from Malta stated that there was always the risk of conventional vehicle drivers not behaving according to the traffic rules. He asked the Group who would be responsible in case of a respective accident.

27. The expert from ETSC suggested that these aspects needed to be further discussed. He stressed the importance of establishing robust oversight and independent investigation possibilities of Advanced Driver Assistance System and ADS.

28. The expert from OICA introduced informal document No. 5, using presentation No. 4. He explained the views of his organization concerning the paradigm shift due to ADS in traffic. He highlighted ADS certification challenges and areas for consideration by the Group, e.g., the harmonization of traffic laws to facilitate international transport including ADS as well as requirements for humans and drivers that cannot be performed by an ADS. There, the new legal instrument could facilitate and improve road safety and lead to the harmonization of traffic rules. He informed the Group about key activities related to ADS, addressed by WP.29, and stressed that an exchange of information between WP.1 and WP.29 was necessary to avoid the duplication of work.

29. The experts from France and Poland expressed views related to driver training and education aspects in the context of ADAS and ADS. They informed the Group, that they were collaborating with the European Commission to revise the directive on the issuance of driving licenses, and that they had held a workshop on that matter.

30. The Chair responded to the request from OICA regarding the importance of information exchange between WP.1 and WP.29, and invited the Secretary, who also served as Secretary to the Working Party on Automated, Autonomous and Connected Vehicles (GRVA) under WP.29, to inform the Group about respective recent activities.

31. The Secretary informed the Group that activities of WP.29 and its subgroups related to ADS were guided by the Framework Document on Automated/Autonomous Vehicles (FAV), originally drafted by China, the European Union, Japan and the United States of America, adopted by WP.29 in June 2019 (ECE/TRANS/WP.29/2019/34/Rev.2 as amended by ECE/TRANS/WP.29/2021/151). He explained that this document also guided the work of the four informal working groups under GRVA, and included safety visions for ADS, amongst others. He briefly introduced the informal working groups as well as other ongoing activities within GRVA, which were initialised before the adoption of the FAV. The Secretary offered to provide more information at the next session of the Group.

32. The expert from Sweden welcomed the proposal by the Secretary.
33. The expert from the University of South Carolina introduced informal document No. 2, using presentation No. 2. He explained that he had focused on possible instruments, both legally binding and non-binding, and on the domestic as well as the international level. He presented his views on safety challenges that might be addressed by international legal commitments by states, e.g., in cases where a vehicle equipped with an ADS approved and registered in one country would operate in another country. He further presented considerations related to safety challenges that might warrant domestic legal consistency among states, and he stressed that incompatibility could lead to safety issues as well as operational issues.
34. The expert from the United Kingdom of Great Britain and Northern Ireland welcomed the presentation as it addressed the scoping exercise. He suggested to prioritize the clarification of responsibilities and the role of ADS. He mentioned the need to address data recording and retention. He also mentioned the case of a vehicle registered in one country that would be engaged in international traffic and mentioned the derived liability issues.
35. He recalled the point raised by OICA regarding the interpretation of human-oriented driving rules and their translation into requirements for an ADS. He explained that the interpretation on how an ADS can meet certain requirements could change over time. He added that there were already discrepancies between countries, e.g. regarding data recording. He therefore suggested a non-binding instrument, namely guidelines, to address the concern raised. He informed the Group that the United Kingdom of Great Britain and Northern Ireland was working on a framework for ADS/AVs containing provisions to enable the international movement of vehicles.
36. The expert from France introduced presentation No. 1 and informed the Group about different possible legal instruments and their implications, with respect to the Group's mandate. She stated that a new convention would be the best suited legal instrument to complement the existing 1949 and 1968 Convention of Road Traffic as it would bring the advantage of high-level compliance and a uniform implementation of rules.
37. The expert from Italy, Chair of WP.1, stated that the work of the Group was neither to focus on technicalities, nor to clarify, e.g., operational design domains, mutual recognition of certificates, or the justification of what was done in a technical body. She recalled that the envisaged main deliverable of the Group, mandated by the Inland Transport Committee (ECE/TRANS/2021/6, Annex III, paragraph 4), was a new legal instrument, expected to complement the 1949 and 1969 Conventions and specifically aimed at ensuring road traffic safety, including vulnerable road users. She pointed out that due to this mandate the new legal instrument could not be an amendment to the Conventions. She stressed the importance of defining the timescale of the new legal instrument first and asked the Group whether delegations envisaged a timescale of, e.g., five to ten years. She stated that a narrow work would be pointless and suggested to consider road traffic safety in the year 2040.
38. The expert from Sweden agreed with the expert from Italy on the importance of the timescale as it would impact the way the text of the new legal instrument was to be written. He stated that the more future-orientated it was, the easier it would be to write and agree on the text, as requirements would need to be more general. He stressed that it was still important to know the future road safety risks.
39. The expert from the United Kingdom of Great Britain and Northern Ireland stated that not all issues identified by the Group so far needed to be part of a legally binding instrument. He suggested to envisage a validity of five to ten years of the new legal instrument to facilitate the deployment of new technologies
40. The expert from Belgium, Vice-Chair of WP.1, proposed to start drafting the new legal instrument. Many meetings had taken place already and a new convention seemed to be the way forward. He suggested to go through the existing Conventions on Road Traffic of 1949 and 1968, to analyse their articles and to adapt them to accommodate ADS.
41. The expert from the United Kingdom of Great Britain and Northern Ireland supported the proposal from Belgium as a pragmatic approach. He added that it could be challenging to

create a legal instrument that stood until 2040 as the situation would develop from first deployments of AVs to AVs being dominant on the roads.

42. The expert from the United States of America stressed again that the Group should focus on the content of a legal instrument and on reaching a common agreement on the relevant risks, before discussing its type and starting the drafting exercise. She remarked that she was interested to take part in the discussions suggested by Belgium.

43. The expert from Australia supported the comments made by the expert from the United States of America but also agreed on the importance of defining a timescale, proposed by the expert from Italy. She suggested to work in parallel on analysing the existing Conventions to elaborate the necessary changes as well as on defining and scoping safety risks related to AVs to elaborate the input for the legal instrument, to make it future proof.

44. The expert from Italy, Chair of WP.1, supported the expert from Australia and the suggested approach to work in parallel on defining the skeleton of a new legal instrument as well as on defining the key principles leading to road safety, by using the documents and material already presented.

45. The expert from Germany supported Italy's proposal to start with the development of a new legal instrument based on the already identified risks.

46. The expert from the University of South Carolina suggested a way forward and a methodology.

47. The Group agreed that any delegation could at any point in time prepare working documents for the Group's next sessions, contributing to item (a) of the PoW, and in parallel, could start defining the skeleton of a new legal instrument, including its key aspects, to prepare for item (b) of the PoW.

## **VI. Other business (agenda item 5)**

48. The Group took note of the possibility to bring in stakeholders to its sessions, whose expertise might be valuable to the work and progress of the Group.

## **VII. Adoption of the list of decisions (agenda item 6)**

*Documentation:* Decisions for silence procedure

49. The Secretary briefly presented the draft list of decisions concerning agenda items 1 to 5, based on his notes during the session.

50. The expert from Italy, Chair of WP.1, suggested that the list of decisions should include more details about the discussions during the session, for more clarity.

51. The Chair explained that the list of decisions was not replacing the session report and considered it to be sufficiently detailed as it was.

52. The Group reviewed the draft list of decisions and endorsed it. It discussed items 7 and 8, as follows.

## **VIII. Adoption of the report of the second session (agenda item 7)**

*Documentation:* ECE/TRANS/WP.1/GE.3/2021/4

53. The Chair consulted the Group on the adoption of the report of the second session. The Group adopted the report of the second session.

## **IX. Next session (agenda item 8)**

54. The Secretary informed the Group that the Inland Transport Committee had requested additional resources to be allocated to the Group, the reason why an additional formal session could take place on 1-2 September 2022.

55. He informed the Group that the envisaged date of the session in November 2022 was changed to 12 December 2022.

56. The Chair invited delegates to join the meeting in person, despite possible difficulties due to the beginning holiday season.

57. The expert from France volunteered to host an informal meeting of the Group in early July 2022. She explained that the meeting would be held online and in English only.

58. The Chair thanked France and invited all delegates to share information and ideas with the French delegation for the preparation of the Group's third informal meeting in 2022.

## Annex

### Statements by Member States

[English/French only]

#### Australia

Australia condemns Russia's unprovoked, unjust and illegal invasion of Ukraine. The invasion is a gross violation of international law, including the Charter of the United Nations.

Australia strongly supports Ukraine's sovereignty and territorial integrity, and we call on Russia to immediately withdraw its forces from Ukrainian territory. We support ongoing peace talks and all efforts to cease hostilities.

Australia is working in lock step with our partners to support Ukraine and hold Russia accountable for its actions. International unity underpins the effective response to Russia's invasion.

#### Canada

Canada condemns in the strongest possible terms Russia's egregious attack on Ukraine. These unprovoked actions are a clear further violation of Ukraine's sovereignty and territorial integrity. They are also in violation of Russia's obligations under international law and the Charter of the United Nations.

Canada calls on Russia to immediately cease all hostile and provocative actions against Ukraine and withdraw all military and proxy forces from the country. Ukraine's sovereignty and territorial integrity must be respected and the Ukrainian people must be free to determine their own future.

We call on Russia to de-escalate and to provide transparency in its military activities. Dialogue is the only path forward, including that ongoing between Ukraine, the OSCE, and Russia, and via the NATO-Russia Council.

Canada remains a steadfast ally of the Ukrainian people and stands in full support of Ukraine's sovereignty, territorial integrity, and independence.

Canada reaffirms its unwavering commitment to Ukraine's sovereignty and territorial integrity, as well as the right of any sovereign state to determine its own future. We commend Ukraine's posture of restraint.

#### France on behalf of the 27 Member States of the European Union

France, as President of the EU Council, would like to make a statement on behalf of the EU and its 27 member states.

We express our full solidarity with Ukraine and the Ukrainian people. The EU recalls that the war in Ukraine today is the result of unprovoked and unjustified military aggression by Russia against Ukraine, which is a flagrant violation of international law, violation that we condemn.

The EU demands that Russia immediately cease its military actions, withdraw all its troops from all Ukrainian territory, fully respect the territorial integrity, sovereignty, and independence of Ukraine within its internationally recognised borders. Russia must also stop its campaign of disinformation and cyber-attacks.



La France, en tant que présidente du Conseil de l'UE aimerait faire une déclaration au nom de l'UE et de ses 27 états membres.

Nous exprimons notre entière solidarité avec l'Ukraine et le peuple ukrainien. L'UE rappelle que la guerre qui ravage l'Ukraine aujourd'hui résulte d'une agression militaire non provoquée et injustifiée de la Russie contre l'Ukraine, ce qui constitue une violation flagrante du droit international, violation que nous condamnons.

L'UE exige de la Russie qu'elle cesse immédiatement ses actions militaires, qu'elle respecte pleinement l'intégrité territoriale, la souveraineté, l'indépendance de l'Ukraine à l'intérieur de ses frontières internationalement reconnues. La Russie doit également cesser sa campagne de désinformation et ses cyber-attaques.

## **Japan**

The recent aggression by Russia against Ukraine is a clear violation of Ukraine's sovereignty and territorial integrity, a unilateral attempt to change the status quo by force, and an act that shakes the very foundations of the international order.

In addition, it has come to light that a series of cruel and inhumane acts by Russia have taken place not only in Bucha, near Kyiv, but also in various parts of Ukraine.

The killing of a large number of innocent civilians is a serious violation of international humanitarian law and constitutes an absolutely unforgivable war crime. Russia must be held accountable for such inhumane acts.

Japan stands with the people of Ukraine. We will help Ukraine people through providing humanitarian assistance as well as accepting Ukraine people who have evacuated from their home country.

## **United Kingdom of Great Britain and Northern Ireland**

The invasion of Ukraine violates international law and the UN Charter. As the UN Secretary-General has said, such unilateral measures conflict directly with the United Nations Charter - the use of force by one country against another is the repudiation of the principles that every country has committed to uphold.

As a Permanent Member of the UN Security Council, Russia has a particular responsibility to uphold international peace and security. Instead, it is violating the borders of another country and its actions are causing widespread suffering.

The UK stands united with partners in condemning Russia's outrageous attack on Ukraine as a clear breach of international law and the UN Charter.

While Russia continues to violate international law, human rights and multiple commitments to peace and security, we will work with our allies and partners across the multilateral system to condemn Russia's appalling actions and to isolate it on the international stage.

## **United States of America**

The United States stands with the people and government of Ukraine as they fight to defend their country from Russia's forces. Vladimir Putin has chosen to launch a premeditated, unprovoked war that is bringing catastrophic loss of life, human suffering, and destruction of critical infrastructure and institutions. In response to Russia's aggression and in coordination with partners around the globe, the United States has resolved to impose severe economic costs on Russia, and we urge member states who have not yet done so to join us or adopt similarly restrictive measures. The Inland Transport Committee was crucial to rebuilding Europe after WWII and Russia's aggression seeks to reverse much of that progress by destroying civilian transport infrastructure.