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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**

Fifth session

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Item 3 of the provisional agenda

Substantive activities

Questions and answers regarding the new legal instrument on the use of automated vehicles in traffic

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This document was submitted by the representative of United Kingdom of Great Britain and Northern Ireland on behalf of the drafting volunteers of the Group of Experts (GoE) on drafting a new legal instrument on the use of automated vehicles in traffic (LIAV) - see ECE/TRANS/WP.1/GE.3/2022/5, para 38. It was prepared during informal meetings organized by the experts from Finland and the Netherlands with drafting volunteers, between the fourth and the fifth session of the GoE on LIAV. This document includes answers to questions that were raised by some contracting parties during the eighty-fifth WP.1 session in September 2022, see ECE/TRANS/WP.1/181, para. 23. It is submitted for review by the GoE on LIAV.

I. How will the new legal instrument complement existing conventions, what issues need to be addressed?

1. WP.1 has established that both the Geneva and Vienna (as amended) Conventions do not prevent deployment of automated vehicles, but their provisions are focused on a human driver.
2. However, the role of a human in automated vehicles is considerably different than in a conventional vehicle; indeed, there may be no human responsible in the automated vehicle. Individual countries are developing approaches to clarify roles and responsibilities in more detail, but initial approaches are already diverging between countries.
3. An international legal instrument setting binding requirements on its parties is needed to:
 - (a) Harmonising rules on use of these vehicles to ensure safe use in international road traffic;
 - (b) Provide clear expectations on vehicle capability for manufacturers to ensure they meet requirements for driver delegation of responsibilities;
 - (c) Support enforcement of road traffic rules for vehicles registered in other countries, namely regarding access to data needed to determine liabilities;
 - (d) Ensure a flexible international legal framework which enables safe deployment without stifling innovation
 - (e) Address the risks identified by contracting parties including those relating to the role and responsibility of driver and vehicle – a majority of parties considered to individually have insufficient information to address the risks, however drafting the legal instrument will facilitate sharing of data and experience, and advice from industry and other experts.

II. Why a new convention as opposed to an amendment to the existing conventions?

4. It is very difficult to make an amendment to the Geneva Convention and if only the Vienna Convention is amended, there would be divergence between the conventions. A broad scope of specific concepts in both conventions need to be addressed in deeper detail than can be achieved by a set of targeted amendments to just one Convention.
5. A protocol could only be appended to one or the other Convention, so this would not be helpful or appropriate for the same reason.
6. A resolution would not be legally binding and so would not enable the international consistency required.
7. There was a majority view among attendees at the third session of GE.3 on 6 May 2022 that a new legal instrument should take the form of another convention, because this supports greater international consistency on rules for use of self-driving vehicles which is needed for cross-border traffic flow and trade.

III. Why is the amendment to the Vienna Convention, agreed in 2020, insufficient?

8. The amendment made to the Vienna Convention was required to enable some countries to authorise trials on their roads, in order to enable the development of the technology and learn from them. However, in the absence of specific provisions in

the existing conventions, safety will rely on domestic rules, which could lead to a divergence in approaches.

IV. Why not draft a regional agreement? A global legal instrument will need to take into account interests all over the world.

9. Both WP.1 and its parent body, the Inland Transport Committee (ITC) approved the establishment of a formal group of experts tasked with drafting a new legal instrument on the use of automated vehicles to complement the existing conventions on road traffic, as set out in the GE.3 terms of reference (see document ECE/TRANS/2021/6).

10. The use of automated vehicles will be a global issue and the circulation of goods and people does not seem like something that should be addressed only regionally – there is a need for creating binding obligations on parties regarding the use of Automated Vehicles (AVs) to enable their safe use.

11. The new instrument does need to be compatible with the needs of both the Vienna and Geneva parties and should not be so specific that it provides solutions only for some.

V. Is there urgency because of the mandate? Why not evaluate what is needed?

12. Urgency is because countries and regions/states are developing approaches to enable safe deployment now. Furthermore, GE.3 was created and allocated resources by the ITC with a clear mandate. While reaching agreement on a new legal instrument and securing enough parties to bring it into force will be a long process, the work to develop the legal instrument in itself has the potential to inform and influence early approach developed by individual countries and support international consistency.

13. A draft legal text will therefore be a valuable tool, the approaches proposed can be explained in a memorandum to enable informed negotiations and also to share information with countries which may not have the same expertise or experience with the technologies.

14. The need for the new instrument was evaluated by means of a survey conducted by Canada and Sweden (GE.3-03-01), which showed 64 per cent of respondents agreed that the existing conventions do not adequately address the topic of AVs in international traffic.

15. In the absence of a new legal instrument, rules on use may diverge between countries which in the shorter term will pose difficulties to development of technologies which can be deployed internationally and in the longer term, pose barriers to international traffic flow.
