

Submitted by the experts from Finland and
the USA on behalf of the GE.3 Subgroup 1

Presentation 3 (GE.3-07-08)

7th GoE on LIAV, 30 November-1 December 2023

Provisional agenda item 3

GE.3 Subgroup 1

Presentation of the templates

7th Session of the Group of Experts on LIAV

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Summary of the work done

- Subgroup 1 had four meetings between after the templates were agreed upon by the GE.3 in May 2023
 - Co-chairs from Finland and the United States
- Written contributions was also gathered
 - Submissions were received from only four contracting parties, one country providing opinions in a consultative role and OICA/CLEPA
- The Group decided that two templates were to be filled in

Template 1

- Risk/issue to be treated: Are there any conditions for when the driver can delegate the dynamic control to the Automated Driving System (ADS)?
- In its 1st meeting on 21st June 2023 the subgroup decided that the submitters could consider the following aspects:
 - 1) Threshold between ADAS/ADS needs to be defined.
 - 2) Conditions relating to safe deployment and use of automated vehicles in road traffic.
 - 3) Keep in mind what can be expected of the human when the ADS is engaged.
 - 4) Terminology: Driver? Driver-in-readiness? Occupant?
 - 5) Various responsibilities under the Conventions currently attached to the driver (a list)
 - 6) Information and other interaction the ADS should communicate to driver/user/occupant.
- Also: Comparing ADS and ADAS

Template 2

- Risk/issue to be treated: If some or all of the responsibilities normally attributed to the driver are not borne by the driver anymore, then who should bear these responsibilities as the ADS does not have legal personhood? How do we identify possible new entities which bear responsibilities normally attributed to the driver?
- Aspects to consider:
 - 1) Accountability from driver responsibility to company responsibility.
 - 2) Defining/recognizing the responsible company.
 - 3) Responsibilities of these companies.
 - 4) Making sure that the companies have sufficient economic resources to respond their responsibilities.
 - 5) Which stakeholders these companies need to communicate with and provide with which information.
 - 6) How do we make the necessary information about these entities available between different jurisdictions to enable enforcement of traffic rules?

Summary of the discussions; Common grounds

- Number of issues where common or almost common understanding amongst the group participants exist.
- Such rather fundamental issues relate to the paradigm shift from driver responsibility to accountability of companies. It is acknowledged that the human (driver) can not be held accountable when the ADS is engaged and has the dynamic control. This evidently means that the role of the companies will be increasing.
- It is also widely acknowledged that not much, if anything, should be expected from the human whilst the ADS is engaged in the DDT.
- All parties agreed that there must be a way for governments, users of automated vehicles and the public to identify which entity is or was responsible for the operation of an ADS, but some did not agree to the best mechanism to achieve this.
- Human factors aspects and research is commonly understood to be needed.

Summary of the discussions:

Gaps in existing legal framework under WP.1

- A number of participants considered that there are gaps in the existing WP.1 legal framework. The existing pieces, while addressing some of the risk in question in a high-level way, are limited in scope and do not clearly cover all scenarios where it a user may delegate dynamic control to an ADS of legislation and/or are in many cases not detailed enough.
- This view was not shared among all participants. There were also participants who were in the opinion that there are no gaps in the existing instruments or the existing WP.1 legal framework.
- The question whether or not there are gaps on the existing legal framework is a matter of opinion
- Further activities to identify the gaps seem fruitless

Summary of discussions; Need for an international legal instrument

- There is a clear distinction between the participants as to whether or not they see an international binding legal instrument (e.g. Convention) necessary or not at this point.
 - Some delegations were of the opinion that the current legal framework does not provide sufficient detail on the vehicle capability required to enable the driver to delegate the dynamic driving task in international traffic.
 - Other delegations were of the opinion that the current legal framework (i.e., conventions) was sufficient for international harmonization purposes.

Summary of the discussions; More discussion will be needed!!!

- The discussions in the group were good and there are a number of issues where more discussions will be needed. Amongst such issues various participants identified the following things:
 - Identifying what the roles and responsibilities should be for users of automated vehicles
 - Terminology, including the distinctions between ADAS and ADS and the functional application of those terms
 - Which entities are responsible for automated driving and identifying those entities as well as the responsibilities/duties of these entities
 - How to enable sharing of data which is required to enforce road traffic legislation in incidents involving these vehicles
 - Comparison of the various established national frameworks outlining responsibilities and agreeing harmonisation wherever possible

Conclusions

- Templates are based on general opinions shared by a limited number of participants who participated, further discussion and analysis of this issue is likely required by GE3/WP1 to determine the best instrument/approach to address this topic.
- It is recommended that GE.3/WP.1 undertake further engagement with industry and other relevant stakeholders to better understand the real-world experiences with ADS technology to date on this issue.
- Discussion with technical experts at WP29 is also recommended to further advance the analysis of this issue.

Thank you!