

**Economic and Social Council**Distr.: General
5 August 2011Original: English
English and French only

Economic Commission for Europe**Inland Transport Committee****World Forum for Harmonization of Vehicle Regulations****Working Party on General Safety Provisions****101st session**

Geneva, 18–21 October 2011

Item 6 of the provisional agenda

Regulation No. 58 (Rear underrun protection)**Proposal for amendments to the 02 series of amendments of
Regulation No. 58 (Rear under run protection)****Note by the secretariat***

The text reproduced below was prepared by the secretariat aligning the transitional provisions of the 02 series of amendments of the Regulation with the General Guidelines on Transitional Provisions (TRANS/WP.29/1044). It supplements the proposal ECE/TRANS/WP.29/GRSG/2011/33 tabled by Japan and takes into account the remarks by the secretariat on documents ECE/TRANS/WP.29/GRSG/2011/19 and ECE/TRANS/WP.29/GRSG/2011/20. The modifications to the current text of the Regulation are marked in bold for new or strikethrough for deleted characters.

*In accordance with the programme of work of the Inland Transport Committee for 2010–2014 (ECE/TRANS/208, para. 106 and ECE/TRANS/2010/8, programme activity 02.4), the World Forum will develop, harmonize and update UN Regulations in order to enhance the performance of vehicles. The present document is submitted in conformity with that mandate.

I. Proposal

Paragraph 31.5., amend to read:

"31. Transitional provisions

- 31.1. As from the official date of entry into force of the 02 series of amendments, no Contracting Party applying this Regulation shall:
- (a) refuse to grant approval under Parts I, II and III of this Regulation as amended by the 02 series of amendments;
 - (b) refuse a type of component or separate technical unit approved under Part I of this Regulation as amended by the 02 series of amendments;
 - (c) prohibit the fitting on a vehicle of a component or separate technical unit approved under Parts I and II of this Regulation as amended by the 02 series of amendments.
- 31.2. Until 18 months after the date of entry into force of this Regulation as amended by the 02 series of amendments, Contracting Parties applying this Regulation shall:
- (a) not refuse a type of component or separate technical unit approved under Part I of this Regulation as amended by the 01 series of amendments;
 - (b) not refuse to grant approvals to those types of component or separate technical unit which comply with the requirements of Part I of this Regulation as amended by the 01 series of amendments;
 - (c) not refuse to grant extensions of approval for components or separate technical units which comply with Part I of this Regulation as amended by the 01 series of amendments;
 - (d) continue to allow the fitting on a vehicle of a component or separate technical unit approved under Parts I and II of this Regulation as amended by the 01 series of amendments.
- 31.3. Starting 18 months after the date of entry into force of this Regulation as amended by the 02 series of amendments, Contracting Parties applying this Regulation shall:
- (a) **may** refuse a type of component or separate technical unit which does not meet the requirements of Part I of this Regulation as amended by the 02 series of amendments;
 - (b) **shall** grant approvals only if the type of component or separate technical unit to be approved meets the requirements of Part I of this Regulation as amended by the 02 series of amendments;
 - (c) **may** prohibit the fitting of a component or separate technical unit which does not meet the requirements of Parts I and II of this Regulation as amended by the 02 series of amendments;
 - ~~(d) consider approvals in the case of types of component or separate technical unit to be invalid, except where they comply with the requirements of Part I of this Regulation as amended by the 02 series of amendments.~~

- 31.4. Until 48 months following the date of entry into force of this Regulation as amended by the 02 series of amendments Contracting Parties applying this Regulation shall:
- (a) continue to grant approvals to those types of vehicles which comply with the requirements of Part III of this Regulation as amended by the 01 series of amendments;
 - (b) continue to accept national or regional type-approval of a vehicle type-approved under Part III of this Regulation as amended by the 01 series of amendments.
- 31.5. As from 48 months after the date of entry into force of this Regulation as amended by the 02 series of amendments, Contracting Parties applying this Regulation shall:
- (a) **shall** grant approvals only if the vehicle type to be approved meets the requirements of Part III of this Regulation as amended by the 02 series of amendments;
 - (b) **may** refuse national or regional type-approval and **may** refuse first national or regional registration (first entry into service) of a vehicle which does not meet the requirements of Part III of this Regulation as amended by the 02 series of amendments.
 - ~~(c) consider approvals to this Regulation to be invalid, except in the case of vehicle types which comply with the requirements of Part III of this Regulation as amended by the 02 series of amendments.~~
- 31.6. 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 approvals which were granted in accordance with any of the preceding series of amendments to this Regulation.

II. Justification

1. This proposal supplements ECE/TRANS/WP.29/GRSG/2011/33 from Japan.
2. The 1958 Agreement is a permissive Agreement. The only obligation is to accept UN approvals as an alternative to the national/regional legislation. There is no obligation to refuse granted UN approvals (see Article 1.6. of the 1958 Agreement: "approvals granted remain valid until their withdrawal). The spirit is different with the European Union (EU) where only the EU legislation may be used at the national level and no alternative national legislation is allowed.
3. Consequently, in subparagraphs 31.3.(a), 31.3.(c) and 31.5.(b), "may" is usually used instead of "shall" for that kind of transitional provisions (see TRANS/WP.29/1044, in particular see V.7, C.7 and F.3). This is why Japan proposes ECE/TRANS/WP.29/GRSG/2011/33 for subparagraph 31.5(b). However, if only ECE/TRANS/WP.29/GRSG/2011/33 is applied, there seems to be a contradiction between subparagraphs 31.5.(b) and 31.5.(c). The same applies for subparagraph 31.3. Therefore, it is proposed to amend subparagraphs 31.3. and 31.5. as suggested above to bring the transitional provisions in line with the spirit of the 1958 Agreement.