

## CLEPA comments to IWVTA-02-08 and additional comment

|     | IWVTA-02-08   | CLEPA position   |
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| 14. | <p>The informal group is invited to consider:</p> <ul style="list-style-type: none"><li>- whether the provisions of the 1958 Agreement in relation to the <b>criteria for establishing of new Regulations</b> are sufficiently clear and detailed or whether there would be a need for addressing these in the review of the 1958 Agreement to provide further detail and precision.</li><li>- whether, as a matter of principle and for the sake of ensuring and promoting mutual recognition, it would be appropriate to maintain in these criteria <b>the possibility of including alternatives in the technical requirements</b>.</li></ul> | <ol style="list-style-type: none"><li>1. CLEPA does not feel the need to provide further detail and precision.</li><li>2. CLEPA is not in favour of the inclusion of alternative requirements, but rather to give the possibility to obtain approvals according to the existing requirements (see item 15 below) and even to earlier versions of a Regulation, for the sake of ensuring and promoting mutual recognition especially in emerging markets.</li></ol> |

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| 15. | <p>Similar to the considerations with regard to the criteria for establishing new Regulations, the informal group is invited to consider:</p> <ul style="list-style-type: none"> <li>- whether the provisions of the 1958 Agreement in relation to the <b>criteria for amending existing Regulations</b> are sufficiently clear and detailed or whether there would be a need for addressing these in the review of the 1958 Agreement to provide further detail and precision.</li> <li>- whether, as a matter of principle and for the sake of ensuring and promoting mutual recognition, it is appropriate to maintain in these criteria <b>the possibility of including the existing requirements as an alternative</b>.</li> <li>- associated questions such as: <ul style="list-style-type: none"> <li>° the need for stocktaking / consolidation / codification of existing Regulations, amendments and corrections ?</li> <li>° the possible need for splitting existing Regulations covering a multitude of different topics into separate Regulations?</li> <li>° clarification on how to deal with amendments / corrections to existing Regulations for type approvals issued based on the existing Regulation?</li> </ul> </li> </ul> | <ol style="list-style-type: none"> <li>1. CLEPA does not feel the need to provide further detail and precision. Except that it might be necessary to clarify the concept of remaining validity of earlier versions of Regulations.</li> <li>2. See reply under item 14.</li> <li>3. As far as we know, this is regularly done by the WP29 secretariat.</li> <li>4. Yes, the possible need for splitting existing Regulations should be looked at.</li> <li>5. The transitional provisions should clarify under which conditions approvals to the previous versions may still be possible. In this respect, care should be taken that existing approvals should in principle never have to be renewed, even though Contracting Parties have the right to require the latest levels.</li> </ol> |

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| 16. | <p>The informal group is invited to consider:</p> <ul style="list-style-type: none"> <li>- whether the provisions of the 1958 Agreement in relation to the procedure for the adoption of new Regulations and amendments to existing Regulations are sufficient or whether there would be any issue with regard to the <b>procedure for voting, notification, objection and entry into force</b> that needs to be improved and addressed in the review of the 1958 Agreement.</li> <li>- in particular, whether, as a matter of principle and for the sake of ensuring mutual recognition based on the IWVTA concept, it would be appropriate to maintain in these provisions the <b>possibility for a Contracting Party to object or to disagree</b> with an adopted new Regulation or adopted amendment to an existing Regulation and as a consequence this adopted Regulation or amendment would not enter into force for such Contracting Party.</li> <li>- whether there would be a need to cover in the 1958 Agreement a special, <b>accelerated adoption procedure</b> in case an urgent regulatory need would arise.</li> </ul> | <ol style="list-style-type: none"> <li>1. Provisions are sufficient, however CLEPA feels shortening the delay between adoption by a GR and entry into force is necessary for adopting amendments to existing Regulations. In particular the 6 months period mentioned in Article 12.2.</li> <li>2. To delete the possibility for a Contracting Party to oppose a new Regulation or an amendment should be considered. For the sake of harmonization, all Regulations and all their amendments should be accepted by all Contracting Parties, with the understanding that Contracting Parties in addition have the possibility to mandate application nationally. But in no case should a complying product be refused by any Contracting Party.</li> <li>3. Yes.</li> </ol> |

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| 17. | <p>The informal group is invited to consider:</p> <ul style="list-style-type: none"> <li>- whether, in the context of the review of the 1958 Agreement, it would be appropriate to include within the inventory and the roadmap the issue of <b>quality of rulemaking</b>, with a view to <b>develop measures</b> and commonly agreed criteria to <b>guarantee an acceptable level of safety, environmental protection or energy performance</b> and to ensure that only <b>high quality and unambiguous texts are adopted</b> and <b>problems of interpretation of existing Regulations</b> are addressed.</li> <li>- which of the provisions of ECE/TRANS/WP.29/1059, and/or any other elements – either existing or new, could serve as a basis for developing the above measures as part of the review of the UNECE 1958 Agreement.</li> </ul> | <p>CLEPA agrees with the need for quality of rulemaking and with the need to guarantee acceptable levels of safety, environmental protection or energy performance.</p> <p>Whether such general statements should be included in the 58 Agreement, and how this could be done, is to be considered.</p> |

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| 18. | <p>The informal group is invited to consider:</p> <ul style="list-style-type: none"> <li>- whether, in the context of the review of the 1958 Agreement and the aim of establishing mutual recognition of vehicle type approvals based on the IWVTA concept, a <b>re-assessment of the different above mentioned rights and obligations for Contracting Parties arising from an adopted Regulation or amendment to an existing Regulation</b> would be appropriate, and in which way these rights and obligations could be improved to support a better and wider application of the Regulations annexed to the 1958 Agreement.</li> </ul> | <p>CLEPA would favour a review of Article 3 to make it clear that Contracting Parties applying a Regulation allow the putting on their markets of components and vehicle systems type-approved by other Contracting Parties applying these Regulation, <u>without any further testing or administrative procedures.</u></p> |

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| 19. | <p>The informal group is invited to consider:</p> <ul style="list-style-type: none"> <li>- whether, in the context of the review of the 1958 Agreement and the aim of establishing mutual recognition of type approvals based on the IWVTA concept, it would be <b>appropriate to maintain</b> within the provisions of the Agreement a <b>reference to other administrative procedures alternative to type-approval (such a self-certification)</b>, and</li> <li>- in the light of the above assessment, the need to reformulate the references to “<i>a Contracting Party applying a Regulation through type approval</i>” in Articles 2 to 5.</li> </ul> | <p>It needs to be clarified that Contracting Parties may well have, at national level, a self certification system, as long as they respect the other obligations of the 58 Agreement (granting of approvals, recognition of approvals).</p> <p>For component approvals ,it should be ensured that a system allowing an element of self-certification does not lead to abuses and unfair competition.</p> |

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| 20. | <p>The informal group is invited to consider:</p> <ul style="list-style-type: none"> <li>- whether, in the context of the review of the 1958 Agreement and with the aim of establishing mutual recognition of type approvals based on the IWVTA concept, it would be appropriate <b>to include in the main body of the 1958 Agreement provisions governing the main principles to be applied for the application for type approval</b>, with a view to ensure their consistent application to all Regulations annexed to the 1958 Agreement and to enable a simplification of the Regulations themselves by avoiding the repetition of each of these main principles in every Regulation, and by limiting the application provisions to be specified in each Regulation to the specificities of the equipment or parts covered by that Regulation.</li> <li>- whether the approach followed in the EU legislation for the procedure to be followed for the type-approval of vehicles could serve as a basis for developing the application procedure for the IWVTA concept.</li> </ul> | <ol style="list-style-type: none"> <li>1. Yes.</li> <li>2. Not relevant for CLEPA.</li> </ol> |

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| 21. | <p>The informal group is invited to consider:</p> <ul style="list-style-type: none"><li>- whether, in the context of the review of the 1958 Agreement and with the aim of establishing mutual recognition of type approvals based on the IWVTA concept, it would be appropriate <b>to include in or append to the 1958 Agreement provisions governing the procedures to be followed with respect to type approval</b>, with a view to complement the more specific and technical provisions on testing methods specified in each of the Regulations annexed to the 1958 Agreement.</li><li>- whether the approach followed in the EU legislation for the procedure to be followed with respect to type-approval could serve as a basis for including or appending such provisions to the 1958 Agreement.</li></ul> | <ol style="list-style-type: none"><li>1. Yes.</li><li>2. Yes.</li></ol> |

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| 22. | <p>The informal group is invited to consider whether, with a view to improve the functioning of the 1958 Agreement, it would be appropriate to:</p> <ul style="list-style-type: none"> <li>- <b>expand the provisions of</b> (article 2 of) <b>the 1958 Agreement to clarify that type-approval shall be based on demonstration of compliance by means of appropriate tests;</b></li> <li>- specify that, for the selection of the type to be tested, <b>the principle of worst casing shall be applied</b>, in line with the provisions of ECE/TRANS/WP.29/1059;</li> <li>- <b>specify the minimum information to be provided in the test report</b> the technical services have to submit to the approval authority</li> <li>- include within the 1958 Agreement the <b>provisions on type-approval documentation</b> as specified in Chapter E of guidance document ECE/TRANS/WP.29/1059</li> </ul> | <ol style="list-style-type: none"> <li>1. Yes. Virtual testing to be included.</li> <li>2. Yes. Further details may be left to the specific Regulations.</li> <li>3. Yes.</li> <li>4. Yes.</li> </ol> |

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| 23. | <p>The informal group is invited to consider:</p> <ul style="list-style-type: none"> <li>- whether, in the context of the review of the 1958 Agreement and with the aim of establishing mutual recognition of type approvals based on the IWVTA concept, it would be appropriate to <b>include in the 1958 Agreement specific provisions enabling self-testing and virtual testing.</b></li> <li>- whether the approach followed in the EU legislation for self-testing and virtual testing could serve as a basis for including or appending such provisions to the 1958 Agreement.</li> </ul> | <ol style="list-style-type: none"> <li>1. CLEPA supports including provisions enabling self-testing and virtual testing provided that provisions on CoP are enhanced and fully implemented, and the criteria for assessment of competence of technical services are defined and provisions for market surveillance are introduced and implemented.</li> <li>2. Yes.</li> </ol> |

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| 24. | <p>The informal group is invited to consider:</p> <ul style="list-style-type: none"><li>- whether, with a view to improve the functioning of the 1958 Agreement, it would be appropriate to <b>include in the 1958 Agreement specific provisions to deal with new technologies</b>, based on the special amendment provisions of Chapter B of document ECE/TRANS/WP.29/1059;</li><li>- whether the approach followed in the EU legislation for <b>type-approval of new technologies</b> could serve as a basis for including similar provisions in the 1958 Agreement.</li></ul> | <ol style="list-style-type: none"><li>1. Yes.</li><li>2. Yes.</li></ol> |

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| 25. | <p>The informal group is invited to consider:</p> <ul style="list-style-type: none"> <li>- whether it would be appropriate to expand the provisions of Article 2 of the 1958 Agreement <b>to specify all conditions necessary for granting type approval.</b></li> <li>- whether the provisions of Article 5 may benefit from being amended to also include procedures to be followed in the case of <b>amendments to type-approvals or refusal or withdrawal of type-approvals</b> and conditions for the <b>termination of their validity.</b></li> <li>- whether the approach followed in the EU legislation with regard to the amendments to and validity of type approvals can serve as a basis for reviewing and enhancing the provisions of the 1958 Agreement.</li> </ul> | <ol style="list-style-type: none"> <li>1. Yes.</li> <li>2. Yes for the two first proposals, but there is no reason to foresee a concept of "termination of validity (unless of course the approval was erroneously granted and there is a safety or environmental hazard). However, the fact that a Regulation is amended should never result in a termination of validity of existing approvals.</li> <li>3. Yes, but see 2. above.</li> </ol> |

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| 26. | <p>The informal group is invited to consider whether, with a view to improve the functioning of the 1958 Agreement, it would be appropriate to:</p> <ul style="list-style-type: none"><li>- review the provisions of Appendix 2 to the 1958 Agreement <b>to enhance the requirements governing the procedures for ensuring conformity of production</b> and to specify any corrective and restrictive measures to be taken by the type approval authority in case these procedures would not (longer) be respected,</li><li>- consider whether the approach followed in the EU legislation with regard to the Conformity of Production can serve as a basis for reviewing and enhancing the CoP provisions of the 1958 Agreement.</li></ul> | <ol style="list-style-type: none"><li>1. Yes.</li><li>2. Yes.</li></ol> |

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| 27. | <p>The informal group is invited to consider whether, with a view to improve the functioning of the 1958 Agreement, it would be appropriate to:</p> <ul style="list-style-type: none"><li>- Better <b>clarify and specify the rights and obligations of manufacturers</b> in relation to the type-approval procedure and the conformity of production,</li><li>- consider the introduction of a <b>certificate of conformity</b> to be issued by the manufacturer for his production vehicles, to confirm their conformity with the vehicle type for which the manufacturer holds a type-approval.</li></ul> | <ol style="list-style-type: none"><li>1. Yes.</li><li>2. Not relevant for CLEPA.</li></ol> |

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| 28. | <p>The informal group is invited to consider:</p> <ul style="list-style-type: none"> <li>- whether it would be appropriate to expand the provisions of the 1958 Agreement <b>to specify the procedure for exchange of information and for consultation between Contracting Parties in case interpretation would arise either prior or subsequent to type approval being granted</b>, by introducing the principles and procedures specified in Chapter A of Guidance document ECE/TRANS/WP.29/1059.</li> <li>- whether for the purpose of facilitating information exchange between Contracting Parties it would be desirable and feasible to set up <b>a data storage and retrieval system</b> (to be addressed by the DETA informal group?)</li> <li>- whether the provisions of Article 3 may benefit from being amended to clarify the <b>criteria and procedures to be followed for a Contracting Party to designate another country</b> (not being a Contracting Party applying the Regulations concerned) <b>in which territory vehicles are manufactured for which that Contracting Party has issued the type-approval</b>, as well as the criteria according to which such vehicles can be held to in conformity with the applicable Regulations</li> <li>- whether the provisions of Article 5 may need to be improved by <b>clarifying the details of the type-approval information that shall be made available upon request</b>, based on the guidance provided in Chapter E of guidance document ECE/TRANS/WP.29/1059.</li> </ul> | <ol style="list-style-type: none"> <li>1. Yes.</li> <li>2. Yes.</li> <li>3. Yes, if we understand that the issue is to clarify the recognition by country B of an UNECE approval delivered by country A, but customs documents or other documents mention that the products have been manufactured in country C which is not a Contracting Party to the Agreement or has not signed the relevant Regulation. Note the EU type-approval certificates require declaration of location of assembly plants to cover that, which is not the case of all UNECE type-approval certificates.</li> <li>4. No comment.</li> </ol> |

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| 29. | <p>The informal group is invited to consider:</p> <ul style="list-style-type: none"> <li>- the need to <b>define</b>, within the 1958 Agreement, <b>the role and responsibilities of technical services, as well as the criteria for the assessment of their competence and their designation.</b></li> <li>- the provisions in Chapter D and Annexes 1 and 2 of guidance document ECE/TRANS/WP.29/1059 as a basis for <b>developing appropriate requirements on technical services within the 1958 Agreement.</b></li> <li>- whether the updated requirements on conformity assessment bodies adopted by the European Union in the context of its framework legislation on the marketing of products could serve as a basis for improving and complementing the criteria for technical services as specified in ECE/TRANS/WP.29/1059.</li> </ul> | <ol style="list-style-type: none"> <li>1. Yes.</li> <li>2. Yes.</li> <li>3. Yes.</li> </ol> |

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| 30. | <p>The informal group is invited to consider whether, with a view to improve the functioning of the 1958 Agreement, it would be appropriate to:</p> <ul style="list-style-type: none"> <li>- introduce more rigorous and defined safeguard requirements, and to use for that purpose the examples provided in the EU legislation on the type-approval of motor vehicles;</li> <li>- introduce provisions on <b>market surveillance</b>, using the EU framework legislation on market surveillance as an example.</li> <li>- develop and introduce specific provisions relating to the <b>recall of vehicles</b>, by specifying the respective obligations and responsibilities of the parties involved (manufacturers, Contracting Party demanding the recall, Contracting Party that issued the type approval for the type of vehicle concerned, other Contracting Parties applying the Regulations concerned<sup>1</sup>;</li> <li>- to review the <b>dispute settlement</b> procedure in Article 10, and in particular to re-assess the appropriateness of allowing new Contracting Parties to opt out from this dispute settlement procedure.</li> <li>- to consider whether any useful role could be provided to WP.29 and/or its working groups in the dispute settlement procedure, as outlined in paragraphs A.3 and A.4 of document ECE/TRANS/WP.29/1059.</li> </ul> | <ol style="list-style-type: none"> <li>1. Yes.</li> <li>2. Yes.</li> <li>3. Yes. Should also be applied to components sold in the aftermarket.</li> <li>4. Yes.</li> <li>5. Yes.</li> </ol> |

<sup>1</sup> See the note submitted by the Chairman of the informal group for the second meeting of the informal group with the title "Review of the 1958 Agreement" and the comments related to Article 4.

**CLEPA additional comment:**

*“increase the number of Contracting Parties to the Agreement” (§1 of the Terms of Reference in WP29-150-25):* CLEPA believes that current voting rights are an obstacle for some non-European countries to join the 1958 Agreement.