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1958 Agreement:

Draft Revision 3 of the 1958 Agreement

Revision 3 of the 1958 Agreement - questions and answers

Submitted by the Informal Working Group on the International Whole Vehicle Type Approval*

The text reproduced below was submitted by the Informal Working Group (IWG) on the International Whole Vehicle Type Approval (IWVTA). It proposes questions and answers related to Revision 3 of the 1958 Agreement. It is based on informal document WP.29-170-21. The World Forum for Harmonization of Vehicle Regulations (WP.29) agreed to circulate the document with an official symbol (see report ECE/TRANS/WP.29/1126, para. 65). It is submitted to WP.29 for consideration at its March 2017 session.

* In accordance with the programme of work of the Inland Transport Committee for 2016–2017 (ECE/TRANS/254, para. 159 and ECE/TRANS/2016/28/Add.1, cluster 3.1), the World Forum will develop, harmonize and update Regulations in order to enhance the performance of vehicles. The present document is submitted in conformity with that mandate.

Revision 3 of the 1958 Agreement - questions and answers

This document proposes questions and answers related to Revision 3 of the 1958 Agreement.

Note: The text of the following questions and answers are not legally binding. Only the text of Revision 3 of the 1958 Agreement, once it entered into force, will be legally binding for Contracting Parties. More information on the development of Revision 3 of the 1958 Agreement is available on the UNECE website under the following links:

[add links at later stage]

The list with GENERAL QUESTIONS RELATED TO WP.29 AND ITS SUBSIDIARY BODIES can be found at: www.unece.org/trans/main/wp29/faq.html

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A. Revision 3 of the 1958 Agreement - Question and Answers (Q&A)

Q&A number:

Q1 What is the 1958 Agreement?

A1 The 1958 Agreement is a multilateral United Nations agreement with the objective of establishing uniform regulations for vehicles and their components relating to safety, environment, energy, and anti-theft requirements.

The Agreement aims at establishing uniform provisions on safety and environmental performance for wheeled vehicles, equipment and parts and to facilitate reciprocal recognition of approvals for such wheeled vehicles, equipment and parts. The Regulations adopted under this Agreement are known as UN Regulations. They are annexed to the Agreement and are formulated and/or revised by the UN World Forum for Harmonization of Vehicle Regulations (WP.29) in consideration of the latest social needs and technological development.

The 1958 Agreement was revised in 1995 (Revision 2) to promote the participation of non-United Nations Economic Commission For Europe (UNECE) member States (such as Japan, South Africa, Australia) and became a global agreement.

Furthermore, the Agreement recognizes self-certification as an alternative to type approval and, therefore, does not preclude those countries whose rules and regulations are implemented through self-certification from becoming Contracting Parties (see also Question 4 below). The text of the Agreement as well as all UN Regulations annexed to it can be consulted or downloaded at:

www.unece.org/trans/main/wp29/wp29regs.html

Entering into force in 2017, the main goals of Revision 3 are to further increase the attractiveness of the 1958 Agreement, to improve the quality of the rulemaking and approval procedures and to provide more flexibility.

The most important changes introduced with Revision 3 of the 1958 Agreement are:

- (a) Possibility to issue type approvals to earlier versions of UN Regulations (see also Question 11);
 - (b) Change of the voting majority threshold for UN Regulations and amendments thereof from 2/3 to 4/5;
 - (c) Introduction of the possibility of virtual testing (if so foreseen in the specific UN Regulation);
 - (d) Introduction of the possibility to grant exemption approvals for new technologies not meeting all requirements of a UN Regulation (but safeguarding an equivalent level of safety and environmental protection);
 - (e) Standardization of type approval documentation via the obligation to include information documents into UN Regulations;
 - (f) Introduction of a UN Database for Exchange of Type Approval information (DETA) with the possibility to replace approval markings by a Unique Identifier;
 - (g) Introduction of an International Whole Vehicle Type Approval (IWVTA) to further promote harmonization and mutual recognition;
 - (h) Possibility to vote in favor of new UN Regulations without being obligated to start applying them immediately;
 - (i) Enhanced provisions on the Conformity of Production (COP);
 - (j) Inclusion of criteria for technical services;
 - (k) Enhanced safeguard provisions;
 - (l) Procedure for solving diverging interpretation issues between Contracting Parties.
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Q&A number:

Q2 What is the concept of mutual recognition under the 1958 Agreement?

A2 The mutual recognition of approvals provided under the 1958 Agreement aims at facilitating the international trade of vehicles and their components. If a vehicle system, equipment or part is type approved according to a UN Regulation by any of the Contracting Parties to the 1958 Agreement (applying that particular UN Regulation), all other Contracting Parties who apply this same UN Regulation will recognize this approval. (The term "apply a UN Regulation" is explained in Question 5 below.)

This avoids repetitive testing and approval of vehicles and their components in various countries in which they are exported. It helps to reduce the time and costs of design, manufacture and approval as well as the entering into service of vehicles and their components.

Mutual recognition of approvals is the cornerstone of the 1958 Agreement. Under this concept, a Contracting Party that applies a UN Regulation is legally obliged to accept type approvals granted by another Contracting Party for that same UN Regulation. Article 3 of the 1958 Agreement clearly states that Contracting Parties shall not require any further testing, documentation, certification or marking concerning these type approvals (this obviously does not address specific documents e.g. for customs). The mutual recognition of approvals to a UN Regulation is applicable only for the Contracting Parties applying the same UN Regulation.

Revision 3 of the 1958 Agreement, however, provides for mutual recognition of type approvals only on the basis of the latest version of a UN Regulation.

As explained in Question 13 below, Revision 3 of the 1958 Agreement foresees the possibility to grant type approvals to earlier versions of UN Regulations, with the consequent clarification that Contracting Parties will have the possibility, but not the obligation, to accept such type approvals to an earlier version of UN Regulations they apply. However, Contracting Parties remain obliged to accept type approvals to the latest version of UN Regulations they apply. Details about further obligations to accept approvals to different versions may be specified in the transitional provisions of a UN Regulation.

Q3 What are the merits of joining the 1958 Agreement?

A3 Governments joining the 1958 Agreement benefit from a high efficiency in the development of regulations, including their continuous adaptation to the technical progress, thereby ensuring high levels of safety and environmental protection.

The industry benefits from unified specifications for the design, construction and certification of new vehicles, thereby reducing costs, and has access to a wider international market.

Consumers benefit from a larger choice in efficient, safe and environment friendly vehicles.

Q&A number:

Q4 Can a country using self-certification become a Contracting Party to the 1958 Agreement and apply UN Regulations?

A4 Yes, this is perfectly possible. The only obligation in such a case is that the approval certificates are accepted as proof (if this is so requested) that the vehicle system, equipment or part complies with the legislation.

In a country using self-certification, the manufacturer has to "self-certify" that his vehicle system, equipment or part comply with the national legislation. If that same country decides to apply a particular UN Regulation, then the manufacturer could "self-certify" that his vehicle system, equipment or part complies with the UN Regulation and could provide the type approval certificate as additional proof, if needed.

Furthermore, even if a country uses self-certification in its own territory, this does not prevent it from issuing type approvals to any UN Regulation it applies (for use of such approvals in other Contracting Parties).

Q5 What is the meaning of "applying" a UN Regulation? What kind of rights and obligations are assigned to the Contracting Parties to the 1958 Agreement?

A5 A Contracting Party that applies a UN Regulation has all the rights and obligations stipulated in the 1958 Agreement. It has the right to grant type approvals to that UN Regulation and to vote on any further amendments to that UN Regulation. The only obligation for that Contracting Party is to accept valid type approvals to that UN Regulation granted by another Contracting Party.

All Contracting Parties to the 1958 Agreement can participate in the elaboration of new UN Regulations and have the right to vote when the new UN Regulation is established.

If a Contracting Party chooses to grant type approval:

- (a) It has the obligation to verify that the products it approved satisfy the arrangements for conformity of production (COP).
- (b) It has the obligation, in the case the product it approved does not comply with the UN Regulation, to ensure that all necessary steps are taken to restore conformity of production as rapidly as possible.

Furthermore, Revision 3 to the 1958 Agreement has added a new right, namely to grant (and accept) approvals to an earlier version of a UN Regulation (see also Question 13 below).

Q6 What are the voting rights for Contracting Parties?

A6 When a new UN Regulation is put to vote, all Contracting Parties to the 1958 Agreement have the right to vote in either of the following ways;

- (a) in favour of the new UN Regulation,
- (b) not in favour of the new UN Regulation; in the case where a Contracting Party does not want to apply the new UN Regulation when it enters into force, it is necessary for that Contracting Party to additionally send a notification to the Secretary-General of the United Nations.

Furthermore, Revision 3 to the 1958 Agreement gives the possibility of voting, namely

- (c) in favour of the new UN Regulation without being obliged to start applying it immediately (i.e. the Contracting Party has the right to start applying a new UN Regulation at a later stage).

However, when it comes to amending an existing UN Regulation, only the Contracting Parties which already apply that UN Regulation have the right to vote.

Q&A number:

Q7 Is it an obligation for a Contracting Party to the 1958 Agreement to grant type approvals to UN Regulation?

A7 There is no strict obligation to do that: the Contracting Party applying a UN Regulation can decide not to grant approvals to that UN Regulation, and only to accept approvals issued by the other Contracting Parties applying that same UN Regulation.

When a Contracting Party decides to grant type approvals to a UN Regulation it applies, it needs the required technical competence to do so, but does not need to possess its own testing facilities. For instance, an approval authority can designate and notify any third party technical service if the latter has the technical competence, and can conduct the tests in its test facilities.

Furthermore, a Contracting Party may even designate, as technical service in charge of verifying the technical conformity of vehicle systems, equipment or parts, an accredited laboratory of another Contracting Party. In that case, the tests are conducted by a foreign technical service and the final administrative type approval is granted by the country where the application for approval was submitted.

Finally, the technical service in charge of conducting the tests can do so in its own test facilities, or in other test facilities (e.g. those of the manufacturer) which applied for approval. In any such case, the technical service is responsible to verify that all testing is in conformance with the requirements of the UN Regulation.

Q8 Do all UN Regulations need to be applied by a Contracting Party to the 1958 Agreement?

A8 No, a Contracting Party to the 1958 Agreement can "sign" (or "apply") the UN Regulations in which it is interested, but it is not an obligation. It may even not apply any of the UN Regulations.

When a country becomes a Contracting Party, it may declare that it is not bound by certain UN Regulations. A Contracting Party which does not intend to apply certain UN Regulations shall notify this to the Secretary-General of United Nations. In the absence of such notification, a new Contracting Party is considered as applying all UN Regulations in force at the time of its accession.

Furthermore, a Contracting Party can cease applying any UN Regulation at any time giving one year's notice. The approvals to that UN Regulation previously granted by that Contracting Party shall remain valid until their withdrawal. Such a withdrawal, however, is foreseen only if a manufacturer fails to meet its obligations. The cessation of application by a Contracting Party is not a reason for the withdrawal of type approvals.

Q9 Are UN Regulations legally binding?

A9 A UN Regulation, after its entry into force, legally binds all those Contracting Parties that apply this UN Regulation.

However, the only obligation for such Contracting Parties is to recognize the type approvals issued by any other Contracting Party, which also applies this UN Regulation. This means that the Contracting Party has the freedom to also accept vehicle systems, equipment or parts satisfying alternative requirements to those contained in the UN Regulation or even to not impose any requirements. It cannot, however, mandate any requirements differing from the UN Regulation it applies for issues covered by that UN Regulation (see also Question 10 below).

Furthermore, any Contracting Party which applies a UN Regulation may issue type approvals according to that UN Regulation, provided it has the technical and administrative competence (see also Question 7 above).

Contracting Parties not applying a UN Regulation are not bound by any legal obligation.

Q&A number:

Q10 Are UN Regulations mandatory? Can alternative national requirements remain in place?

A10 UN Regulations are not mandatory. A Contracting Party, which applies a UN Regulation, can retain an alternative national legislation, as long as it accepts valid type approvals to that UN Regulation as proof of compliance.

As an example, a Contracting Party applying a UN Regulation may decide to equally accept vehicle systems, equipment or parts meeting alternative (e.g. United States-Federal Motor Vehicle safety Standard, US-FMVSS) requirements. They may even decide not to have any legal requirement nationally, as long as the use of type approvals to that UN Regulation for national acceptance is not prevented.

Q11 How can Contracting Parties influence the development and the evolution of UN Regulations?

A11 As noted in Question 6, any Contracting Party can vote on the development of new UN Regulations and on the further amendments of those UN Regulations it applies.

Contracting Parties having a vested interest in a particular issue are strongly invited to actively participate in the various subsidiary bodies of WP.29, including any specific informal working groups on that subject. By such active participation, Contracting Parties can have a better influence on the legislative development and their input will be more than welcome.

Q12 Is it possible to use UN Regulations without being Contracting Party to the 1958 Agreement?

A12 Any country, even one that is not Contracting Party to the 1958 Agreement, is free to "use" UN Regulations by transposing the contents into its domestic law, or by simply accepting approvals granted according to these UN Regulations.

Acceding to the 1958 Agreement and applying the appropriate UN Regulation(s), however, has a number of additional advantages.

Only Contracting Parties to the 1958 Agreement can request another Contracting Party to take corrective actions in the case a product, approved by that Contracting Party, is found to be non-complying. Furthermore, only Contracting Parties are entitled to contribute to the elaboration of new UN Regulations or their amendments and to cast a vote. They are, therefore, most able to influence the development of UN Regulations and their amendments to ensure that their particular position is taken into account.

Q13 Is it possible to issue type approval to an earlier version of a UN Regulation? If yes, how does the mutual recognition of approvals take place?

A13 Revision 3 of the 1958 Agreement foresees this possibility. All Contracting Parties applying a UN Regulation will have the possibility to grant approvals to any earlier version of that UN Regulation and can decide (but are not obliged) to accept such approvals on their national level. The only obligation in such a case is to also accept approvals granted to the latest version of the UN Regulation.

In the case a Contracting Party decides to accept an earlier version of a UN Regulation, it should notify the UN Secretariat accordingly to update the status document of the 1958 Agreement (document ECE/TRANS/WP.29/343/Rev.xx).

Any Contracting Party may decide to accept only type approvals to the latest version of a UN Regulation.

As a consequence, full mutual recognition of approvals is only guaranteed for those granted according to the latest versions of a UN Regulation. In the case of approvals granted to an earlier version, wide international mutual recognition is perfectly possible, but it is not guaranteed.

Q&A number:

Q14 How can a Contracting Party gain access to an earlier version of a UN Regulation?

A14 When a Contracting Party informs the secretariat of its intention to grant type approvals pursuant to a former version of a UN Regulation, which is not publically available at the UN website, the secretariat will, as soon as feasible, make available on the UNECE website all relevant documentation (i.e. Revisions, Amendments and Corrigenda) related to that former version. In the case these documents are only available on micro-fiche or as a paper document, a scanned copy will be made available.

Q15 What happens with UN Regulations and their amendments adopted under Revision 2 of the 1958 Agreement and approvals granted prior to the entry into force of Revision 3 to the 1958 Agreement?

A15 Approvals granted according to individual UN Regulations prior to the entry into force of Revision 3 to the 1958 Agreement shall continue to be accepted by those Contracting Parties applying the said UN Regulations, and this until the transitional provisions of later amendments to these UN Regulations so foresee.

Revision 3 to the 1958 Agreement foresees that approvals may be granted to earlier versions of a UN Regulation. Article 12, paragraph 4 in addition extends this possibility to UN Regulations and their amendments adopted under Revision 2 to the 1958 Agreement, even if the transitional provisions in the individual versions of the UN Regulation did not foresee this possibility. Consequently, Revision 3 to the 1958 Agreement will allow the granting of approval to earlier versions of UN Regulations, even if these earlier versions were adopted under Revision 2 of the 1958 Agreement.

By default, after the entry into force of Revision 3 to the 1958 Agreement, its provisions apply as well to all actions (e.g. related to the frequency of conformity of production verifications by approval authorities or of the assessment and designation of technical services) on UN type approvals granted prior to the entry into force of Revision 3 to the 1958 Agreement.

Q16 What is the Conformity of Production (COP) procedure?

A16 Before granting a type approval pursuant to a UN Regulation annexed to the 1958 Agreement, the type approval authority of a Contracting Party has to proceed to an initial assessment of the manufacturer's production plant, i.e. verify the existence of satisfactory arrangements and procedures (such as standard ISO 9001) for ensuring effective control so that vehicles, equipment or parts when in production conform to the approved type. The type approval authority has to verify the existence of adequate arrangements and documented control plans, to carry out at specified interval tests or associated checks necessary to verify continued conformity with the approved type, including, where applicable, the specific COP tests laid down in the applicable UN Regulation.

The type approval authority that has granted type approval may verify, at any time, the conformity control methods applied in each production facility. The normal frequency of these verifications and the COP test procedure shall be consistent with the arrangements specified in the 1958 Agreement or according to COP provisions of the applicable UN Regulation annexed to the Agreement.

Q17 What happens when the production of a type approved product is discontinued or stopped?

A17 Discontinuation of production of a type approved product does not entail the automatic withdrawal of the approval. As a general principle, UN approvals remain valid indefinitely (even though not necessarily subject to mutual recognition). As specified by Article 4 of the 1958 Agreement, approvals can be withdrawn in cases of non-conformity, but the discontinuation of the production is not a sufficient reason to revoke an approval.

Q&A number:

Q18 What's the necessary procedure to accede to the 1958 Agreement?

Who (what agency), when, and what should be submitted to the United Nations to accede to the 1958 Agreement?

A18 Since the 1958 Agreement is a kind of multilateral treaty, a country accedes to the Agreement after the Minister for Foreign Affairs (or President, Prime Minister, Ambassador, etc.), who has the right to sign the treaty, deposits an instrument of accession with the UN Secretary-General. (The decision making process and the domestic procedure to accede to the 1958 Agreement must be in accordance with the respective domestic law.)

Q19 How can non-governmental organizations participate in the 1958 Agreement?

A19 As such, only countries, represented by their relevant authorities, can become Contracting Party to the 1958 Agreement. However, a number of international Non-Governmental Organizations, accredited by the United Nations, do regularly participate in the activities of the 1958 Agreement, providing technical advice, actively contributing to the development of UN Regulations and their amendments, providing secretariat activities for a number of informal working groups, etc. As an example, the International Organization of Motor Vehicle Manufacturers (OICA), officially representing the global motor vehicle industry (cars, trucks, buses/coaches), actively contributes since 1954 (development of the 1958 Agreement). OICA is officially accredited as the representative of the global automotive industry since 1956.
