

**ECONOMIC COMMISSION FOR EUROPE**

**WORLD FORUM FOR HARMONIZATION  
OF VEHICLE REGULATIONS (WP.29)  
HOW IT WORKS  
HOW TO JOIN IT**



**UNITED NATIONS**

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## FOREWORD

This is the second edition of the publication, frequently referred to as the "Blue Book." It describes the basis for and operation of the Working Party on the Construction of Vehicles (WP.29), a subsidiary body of the United Nations, Economic Commission for Europe, Inland Transport Committee.

This edition marks not only the beginning of a new millennium, but more important, the transformation of WP.29 from an organization with a primary focus on the performance of vehicles constructed in Europe, to one that will henceforth expressly address global issues regarding vehicle safety, environmental pollution, energy and anti-theft. This transformation is reflected in the new name of the organization. Effective with the one-hundred-and-twentieth session of WP.29, 7-11 March 2000, the organization became "World Forum for Harmonization of Vehicle Regulations (WP.29)", meaning that the well-recognized "WP.29" designation will remain in use.

The growth of the world vehicle population and its impact on society, and the evolution of engine-powered vehicle markets from regional to global have focused attention on several needs. First, there is a need to provide higher levels of vehicle safety, environmental protection, energy efficiency and vehicle security. Second, there is a need to reduce the diversity of regulatory requirements regarding vehicle safety and environmental performance in order to facilitate global commerce in these products. The recognition by many countries throughout the world of WP.29's accomplishments during the past forty-seven years in reducing the diversity of regulatory requirements within Europe set the stage for its transformation to a "world forum".

This document presents a comprehensive view of WP.29 beginning with a brief history from its inception as a regional forum through its recent transformation into a world forum. The principal intent of this document is to present the organizational structure and operational process of WP.29 and its subsidiary bodies and their relationship to specific multinational agreements under the United Nations.

Participation in the "World Forum for Harmonization of Vehicle Regulations (WP.29)" is open to all interested parties in accordance with its Terms of Reference and Rules of Procedure. It is hoped that this document will serve to enlighten and invite governments and non-governmental organizations throughout the world to participate in the development and harmonization of "world" regulations for vehicle safety, environmental pollution, energy sources and anti theft.

Bernard Gauvin  
Chairman of WP.29

At Geneva, Switzerland, 10 November 2000

## ACKNOWLEDGEMENT

The work of the Forum is only possible because of the consistent and dedicated work of the participants. WP.29 wished to acknowledge the contribution of the many experts to both the work of the Forum, over many years, and to the drafting of this publication.

In particular, WP.29 wishes to acknowledge the personal contribution of Mr. Giacomo Poggi, WP.29's first Honorary Chairman, who has been active in its work since the beginning and who was its Chairman for thirty-one years. His contribution helped also to compile the concise historical sections of this publication.

## NOTE

The information in this document reflects the situation as at the end of January 2002.

## CONTENTS

	<u>Page</u>
Foreword .....	1
Acknowledgement .....	2
Note .....	2
<u>Chapter I</u> : The Global Role of WP.29 .....	5
<u>Chapter II</u> : Participation in WP.29 .....	7
<u>Chapter III</u> : Organization of WP.29 and its Subsidiary Bodies .....	10
<u>Chapter IV</u> : Agreements Administered by WP.29 .....	13
<u>Chapter V</u> : WP.29 Regulation Development Process .....	23
<u>Chapter VI</u> : Special Considerations and Actions Attendant to Agreements Administered by WP.29 .....	26
 <b>ANNEXES</b>	
<u>Annex I</u> : Terms of Reference and Rules of Procedure of the World Forum for Harmonization of Vehicle Regulations .....	31
<u>Annex II</u> : Agreement Concerning the Adoption of Uniform Technical Prescriptions for Wheeled Vehicles, Equipment and Parts which can be Fitted and/or be Used on Wheeled Vehicles and the Conditions for Reciprocal Recognition of Approvals Granted on the Basis of these Prescriptions (Revision 2 of the Agreement, which had been done at Geneva on 20 March 1958) .....	41
<u>Annex III</u> : Agreement Concerning the Establishing of Global Technical Regulations for Wheeled Vehicles, Equipment and Parts which can be Fitted and/or be Used on Wheeled Vehicles, done at Geneva on 25 June 1998 .....	53
<u>Annex IV</u> : Agreement Concerning the Adoption of Uniform Conditions for Periodical Technical Inspections of Wheeled Vehicles and the Reciprocal Recognition of Such Inspections, done at Vienna on 13 November 1997 .....	73

## CONTENTS (continued)

	<u>Page</u>
<u>Annex V</u> : List of Non-Governmental Organizations Currently Participating on a Regular Basis in the Activities of WP.29 .....	87
<u>Annex VI</u> : National and Regional Regulatory Development and Enforcement Processes .....	89
<u>Section 1</u> : European Community .....	90
<u>Section 2</u> : Japan .....	94
<u>Section 3</u> : Russian Federation .....	99
<u>Section 4</u> : United States of America .....	102
<u>Section 5</u> : Canada .....	121
 <b>CHARTS</b>	
<u>Chapter III</u> : <u>Chart 1</u> - Organization of WP.29 .....	12
<u>Chapter IV</u> : <u>Chart 2</u> - Contracting Parties to the 1958 Agreement .....	15
<u>Chart 3</u> - Contracting Parties to the 1998 Global Agreement .....	19
<u>Chart 4</u> - Contracting Parties to the 1997 Agreement .....	22
<u>Chapter VI</u> : <u>Chart 5</u> - Establishing Global Technical Regulations .....	29
<u>Chart 6</u> - UNECE World Forum WP.29 Consideration and Establishment of Regulations .....	30
 <u>Annex VI</u> :	
<u>Section 1</u> : European Community	
<u>Appendix 1</u> - Co-decision procedure .....	92
<u>Appendix 2</u> - Operation of EC type-approval (based on Directive 70/156/EEC) .....	93
 <u>Section 2</u> : Japan	
Safety and Environmental Standards for Vehicles .....	97
Procedure Flow from Vehicle Examination to Registration: Type Approval System .....	98
 <u>Section 4</u> : United States of America	
Rulemaking Process - United States of America .....	120

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## Chapter I

### **The Global Role of WP.29**

World Forum for Harmonization of Vehicle Regulations (WP.29), previously known as the Working Party on the Construction of Vehicles, was established on 6 June 1952 within the framework of the Inland Transport Committee (ITC), by Resolution No. 45 of the Subcommittee on Road Transport (SC.1) of the Economic Commission for Europe of the United Nations (UNECE). The Resolution called for the establishment of a working party of experts competent in the field of technical requirements for vehicles in order to implement the general technical provisions set out in the Convention on Road Traffic adopted in Geneva in 1949. Those provisions identified vehicle characteristics as a major cause of road traffic crashes, deaths and injuries.

WP.29 held its first session from 10 to 13 February 1953, attended by nine governments 1/ and five non-governmental organizations 2/. The first report indicated the kinds of matter that were of concern at the time, i.e. whether one or two red lights should be installed at the rear of motor vehicles, etc. Gradually, a program of work took shape and concerns began to be expressed in terms of accident prevention (active safety). A noteworthy accomplishment was the conclusion of an Agreement signed in Rome in 1956 in the form of an exchange of letters (indirectly sponsored by WP.29) between the governments of the Federal Republic of Germany, France, Italy and the Netherlands, on the subject of adoption of uniform and harmonized requirements for headlamps emitting an asymmetrical passing beam.

The Rome Agreement of 1956 was significant in that it was the first step towards the official recognition of the need within Europe for an Agreement that not only addresses the safety concerns posed by road traffic but also tackles the problems of diverse state regulations which can disrupt the free flow of commerce across state borders. Trade considerations were important at a time when Europe was in the process of reconstructing itself. The facilitation of safe and efficient transportation systems within Europe, which was the primary focus of the ITC, played an important role in that endeavour. In March 1958, the Federal Republic of Germany proposed that an agreement be established under the auspices of UNECE in order to facilitate the adoption of uniform conditions of approval and the reciprocal recognition of approval for motor vehicle equipment and parts. Thus the Agreement was done on 20 March 1958 and it entered into force on 20 June 1959, upon the signature of several European countries. WP.29 was naturally appointed the administrative body of the Agreement. The harmonized headlamp regulation that was concluded in Rome became the first UNECE Regulation to be annexed to the 1958 Agreement.

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1/ Belgium, France, Italy, the Netherlands, Sweden, Switzerland, the United Kingdom and the United States of America (representing the occupational zones of Germany).

2/ World Touring and Automobile Organization (OTA); International Road Federation (IRF); International Road Transport Union (IRU); International Organization for Standardization (ISO); International Permanent Bureau of Motor Manufacturers (BPICA).

Since then, WP.29 and its working subsidiary expert bodies began to look beyond active safety and into addressing the reduction of the effects of accidents on the human body (passive safety). In addition, WP.29 became interested in the problems of environmental protection: air quality (threatened by pollution from exhaust gases) and the limitation of disturbances due to noise from motor vehicles. At first, it took some time to establish Regulations. However, WP.29 became gradually very efficient in managing its activities resulting in the establishment of 114 UNECE Regulations. The participation in WP.29 also grew as more European and non-European countries became interested in its work and in adherence to the 1958 Agreement. In addition to the United States of America and Canada, which participated in WP.29 since its inception, Japan and Australia have attended the meetings regularly for over 20 years. The Republic of South Africa and the Republic of Korea have participated for a few years. People's Republic of China, Thailand, Brazil, and Argentina have also participated, but to a lesser degree. In 1998, Japan became the first non-European country to accede to the 1958 Agreement, followed by Australia in 2000, South Africa in 2001 and New Zealand in 2002.

With the growing need for global harmonization and at the recommendation of the Administrative Committee for the Coordination of Work (WP.29/AC.2), the United States proposed to WP.29 a new Global Agreement. The new Agreement was negotiated under the leadership of Japan, the European Community and the United States of America, and was concluded on 25 June 1998. Thus was formed the 1998 Global Agreement which entered into force on 25 August 2000. This Global Agreement shall allow countries which are not ready to or cannot assume the adoption and implementation of obligations of the 1958 Agreement, including mutual recognition obligations, to engage in an effective way in the development of harmonized global technical regulations. The establishment of the 1998 Global Agreement, which will be administered also by WP.29, completed the transformation of WP.29 into the "World Forum for Harmonization of Vehicle Regulations (WP.29)". The new name, which was proposed by Japan, became effective at the one-hundred-and-twentieth session in March 2000.

WP.29 currently administers three Agreements: the 1958 Agreement, the 1998 Global Agreement and the 1997 Agreement on Periodical Technical Inspections. Subsidiary Working Parties which had developed from the former "Groups of Rapporteurs" and "Meetings of Experts" assist WP.29 in researching, analyzing and developing requirements for technical regulations in the areas of their expertise: Pollution and Energy (GRPE), General Safety Provisions (GRSG), Brakes and Running Gear (GRRF), Lighting and Light-Signalling (GRE), Passive Safety (GRSP) and Noise (GRB).

## Chapter II

### **Participation in WP.29**

WP.29 fosters worldwide participation in its activities by encouraging cooperation and collaboration between countries and regional economic integration organizations with regard to technical matters that come before it and before its Working Parties. WP.29 also encourages an open and transparent dialogue between government regulators, other technical experts competent in the field of technical requirements for vehicles, and the general public, in order to ensure that best safety and environmental practices are adopted and economic implications are taken into account in the development of regulations. The meetings of WP.29 are public. Any government and any other interested party may attend and observe the proceedings of the meetings.

#### Participation of Governments

In accordance with Rule 1 of the Terms of Reference and Rules of Procedure of WP.29 (Annex I), any country member of the United Nations, and any regional economic integration organization set up by countries members of the United Nations, may participate fully or in a consultative capacity in the activities of WP.29 and become a contracting party to the Agreements administered by WP.29. For specific details on participation in WP.29, please refer to the Terms of Reference and Rules of Procedure in Annex I.

The official process for becoming a participant is simply to send a letter signed by the authorized official of an interested country or regional economic integration organization (REIO) notifying the Secretariat of WP.29 of the desire of that country or REIO to send representative(s) to the meetings and to participate in the activities of WP.29.

If a country or REIO wishes to become a contracting party to an Agreement administered by WP.29, its consent to be bound by that agreement must be in accordance with the provisions of that Agreement. Those provisions include signature, and notifications of ratification, acceptance, approval or accession. Please refer to Article 6 of the 1958 Agreement, Article 9 of the 1998 Global Agreement and Article 4 of the 1997 Agreement on Periodical Technical Inspections, as presented in Annexes II, III and IV respectively.

While an Agreement is open for signature and a country or REIO expresses its consent to be bound by an Agreement by signing it, the signing must be:

- done by a Head of State, Head of Government or Minister for Foreign Affairs of that country, or
- authorized by the Full Powers signed by one of the afore mentioned representatives of a country or REIO, indicating clearly the title of the Agreement and the name and function of the official authorized to sign.

At the time of signing, or in the text of Full Powers, it shall be expressly indicated if the signature is definitive, or only a simple signature, subject to ratification.

For the Agreements in force, for which the period of opening for signature had been closed, a country or REIO may express its consent to be bound by an Agreement by depositing an instrument of accession with the Secretary-General of the United Nations.

#### Participation of Non-Governmental Organizations

In accordance with Rule 1 of the Terms of Reference and Rules of Procedure, non-governmental organizations (NGOs) may participate in a consultative capacity in WP.29. In order for an NGO to participate in WP.29, it must first be accredited a consultative status to ECOSOC - the Economic and Social Council of the United Nations. By attaining consultative status with ECOSOC, NGOs can contribute to the work programs and goals of the UNECE WP.29 by serving as technical experts or advisers and consultants to Governments and the Secretariat. The number of NGOs participating at any one time in the activities of WP29 and its subsidiary bodies typically varies between six and fifteen, depending on the agenda of topics, with a smaller range at the sessions of subsidiary Working Parties and informal working groups.

NGOs are substantive contributors to the process of developing UNECE wheeled vehicle safety, environmental, energy and anti-theft regulations. They are often called upon for technical data and advice. In special cases, they generate support for their positions by investing in testing and analysis, and making the resulting information available to the experts developing the regulations. On occasions and in response to requests made by the technical experts, they have provided proposals for regulations and amendments to existing regulations. They have also advocated certain policy positions and provided testimony to legislative bodies of participating governments.

To apply for consultative status, an organization shall send a letter of intent to the NGO section of the Division for ECOSOC Support and Coordination in the Department of Economic and Social Affairs and request an application form for consideration.

The mailing address is:

NGO Section  
ECOSOC Support and Coordination  
Department of Economic and Social Affairs  
United Nations Headquarters  
Room DC1 B 1480  
New York, NY 10017 (USA)  
Fax: +1 (212) 963-9248  
E-mail: [desangosection@un.org](mailto:desangosection@un.org)

The letter requesting the application form should be on the organization's letterhead and signed by its Secretary-General or President. Included with this letter should be the NGO's mission statement, a brief description of its main activities, and a description of the nature of the NGO's organization (e.g., a national coalition of x number of NGOs, or an international NGO with y number of affiliates). Once the NGO section receives the letter of intent, the application package containing a questionnaire and background material is mailed to the organization.

The deadline for receiving completed applications is June 1 of each year. ECOSOC's Committee on NGOs (outlined above) meets on an annual basis to review these applications. The 19 member Committee then recommends to ECOSOC which applications should be granted. The recommendation goes to the full Economic and Social Council, which makes the final decision.

Annex V lists those NGOs that currently participate on a regular basis in the activities of WP.29 and its subsidiary bodies.

## Chapter III

### **Organization of WP.29 and its Subsidiary Bodies**

WP.29 is a working party under the United Nations Economic Commission for Europe's Inland Transport Committee. As stated previously, it has now become the World Forum for the Harmonization of Vehicle Regulations (WP.29) - see organizational chart below. Its role and that of its subsidiary Working Parties is to develop new regulations, harmonize existing regulations and amend and update current UNECE Regulations that address the areas of concern covered by the Agreements administered by WP.29.

The day-to-day management of the activities of WP.29 is carried out by the UNECE Secretariat. The Secretariat provides the administrative support for all sessions, including the preparation of the reports. The coordination of work of WP.29 is managed by a small Steering Committee (WP.29/AC.2) comprised of the Chairperson, Vice-Chairperson and Secretariat of WP.29, the Chairperson and Vice-Chairperson of Executive Committee attendant to each of the Agreements administered by WP.29, the representatives of the European Community, Japan and the United States of America, and the Chairperson and Vice-Chairperson of each subsidiary Working Party of WP.29. The duties of WP.29/AC.2 are to develop and recommend a Programme of Work to WP.29, review the reports and recommendations of the subsidiary Working Parties and identify items that require action by WP.29 and the time frame for their consideration, and provide recommendations to WP.29. For additional information regarding the Terms of Reference and Rules of Procedure of WP.29, please refer to Annex I.

Regularly, sessions of WP.29 are held three times a year. Those of the subsidiary Working Parties of Experts (GRs) are held twice a year by each of them. The WP.29/AC.2 meetings are held prior to each WP.29 session. The primary areas of concern by the GRs are:

#### Active safety of vehicles and their parts (crash avoidance)

The regulations in this area seek to improve the behaviour, handling and equipment of vehicles so as to decrease the likelihood of a road crash. Some of the regulations seek to increase the ability of drivers to detect and avoid hazardous circumstances. Others seek to increase the ability of drivers to maintain control of their vehicles. Specific examples of current regulations include ones applying to lighting and light-signalling devices, braking and running gear, including steering, tyres and rollover stability. This area of technology is rapidly changing. The advent of advanced (e.g., electronic, computer, and communication) technologies is providing opportunities for seeking new remedies that can help drivers avoid crashes.

#### Passive safety of vehicles and their parts (crashworthiness)

The regulations in this area seek to minimize the chance and severity of injury for the occupants of a vehicle and/or other road users in the event of a crash. Extensive use is made of crash statistics to identify safety problems for which a regulation or amendment to an existing regulation is needed and define a proper cost/benefit approach when improving performance requirements in this area. This is important, given the overall impact of new requirements on vehicle construction, design and cost. Specific examples of current regulations include ones

addressing the ability of the vehicle structure to manage crash energy and resist intrusion into the passenger compartment, occupant restraint and protection systems for children and adults, seat structure, glazing, door latches and door retention, pedestrian protection and for motorcycles, the quality of the protective helmet for the rider. This area of technology also is changing rapidly and becoming more complex. Examples include advanced protection devices that adjust their performance in response to the circumstances of individual crashes. In addition, changes in the vehicle population are raising issues of vehicle compatibility and aggressivity.

#### Environmental considerations

The regulations in this area are of great importance to health and welfare of society. In general, they address questions of the pollution of the environment, noise disturbances, and conservation of energy (fuel consumption). The existing regulations are regularly amended and new regulations are developed in order to take account of the technical progress and the wish of the Contracting Parties to the Agreement to further reduce negative influences of motor transport on the environment.

#### General safety considerations

The regulations in this area address vehicle and component features which are not directly linked to the above-mentioned subject areas. For example, windshield wipers and washers, controls and displays and glazing are grouped under this heading. Further, theft prevention and the considerations of public transport vehicles for which special expertise is needed in establishing their performance requirements are covered in this category.

#### Special technical considerations

In some cases, a specific problem needs to be solved urgently or needs to be addressed by persons having a special expertise. In such situations, a special informal group may be entrusted with the analysis of the problem and invited to prepare a proposal for a regulation. Although such cases have traditionally been kept to a minimum, the rapid development of complex new technologies is increasing the necessity for using this special approach.

#### Subsidiary bodies of WP.29 responsible for the different Regulations:

Proposals to WP.29 for new regulations and amendments to existing UNECE Regulations are referred by WP.29 to its subsidiary bodies for preparation of technical recommendations. Each subsidiary body consists of people whose expertise is relevant to the area covered by the body. The current allocation of subject matter responsibility among the subsidiary bodies developed at the time of the original "Groupes des Rapporteurs", some of which were later merged to form the more recent "Meetings of Experts". The work of the subsidiary bodies has proved to be so useful and indispensable that they have been given permanent status under the UNECE and, in turn, have recently been renamed "Working Parties." There are currently six Working Parties subsidiary to WP.29. In order to observe tradition and to maintain continuity concerning the titles of these subsidiary bodies, the abbreviation "GR" (coming from the time of "Groupes des Rapporteurs" and the names of those Groups in the French language) is being kept in the acronyms of the Working Parties and in the symbols of their working documents:

Responsible for Active Safety: Working Party on Lighting and Light-Signalling (GRE);  
Working Party on Brakes and Running Gear (GRRF);

Responsible for Passive Safety: Working Party on Passive Safety (GRSP);

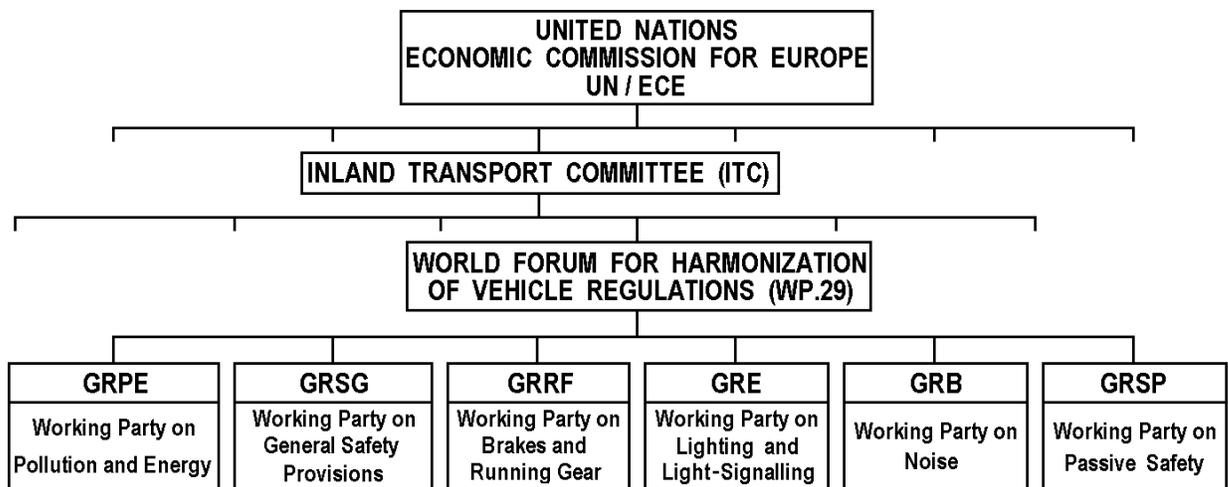
Responsible for Environment Protection: Working Party on Pollution and Energy (GRPE);  
Working Party on Noise (GRB);

Responsible for General Safety Questions including Public Service Vehicles: Working Party on General Safety Provisions (GRSG);

Special Technical Issues: Informal group(s) which are formed by, and report their work to one of the established Working Parties subsidiary to WP.29.

**CHART 1**

ORGANIZATION OF WP.29



## Chapter IV

### **Agreements Administered by WP.29**

#### The 1958 Agreement

The 1958 Agreement was done on 20 March 1958, entered into force on 20 June 1959, amended on 10 November 1967, and again revised on 16 October 1995 under the auspices of the UNECE WP.29. The purpose of the Agreement is to provide procedures for establishing uniform prescriptions regarding new motor vehicles and motor vehicle equipment and for reciprocal acceptance of approvals issued under Regulations annexed to this Agreement. At the moment, reciprocal recognition under the Agreement is only for vehicle systems, parts and equipment, not for the entire vehicle. Regulations adopted by Contracting Parties pursuant to the Agreement govern the approval of motor vehicles and motor vehicle equipment for sale in those countries. The Agreement was originally intended to address only safety requirements, but has since been amended to encompass environmental (air and noise pollution emission), energy and anti theft prescriptions.

The 1958 Agreement currently has 38 Contracting Parties, of which 33 are European UNECE member countries. Other Contracting Parties include the European Community (regional economic integration organization), Japan, Australia, South Africa and New Zealand. Chart 2 lists the Contracting Parties to the Agreement and the date of application of the Agreement by those Parties. Ireland is a European Community Member State, which by virtue of the European Community accession to the Agreement applies the UNECE Regulations that the Community applies.

The Agreement has 114 UNECE Regulations annexed to it. These Regulations govern passenger cars, light trucks, heavy trucks, trailers, mopeds and motorcycles, public service vehicles, and other vehicle types and their equipment and parts, and have been adopted to varying degrees by the Contracting Parties. The reciprocal recognition of type approvals among Contracting Parties applying the Regulations has facilitated trade in motor vehicles and equipment throughout Europe. In recent years, the WP.29 has been used as forum for harmonizing UNECE Regulations and EC Directives. For the complete text of the 1958 Agreement, please refer to Annex II.

#### Principal Elements of 1958 Agreement:

- Members of the UNECE, as well as other members of the United Nations and Regional Economic Integration Organizations that participate in UNECE activities, are eligible to become Contracting Parties to the 1958 Agreement. (Article 6)
- The 1958 Agreement seeks to establish Regulations for wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles, and conditions for granting type approvals and their reciprocal recognition for use by Contracting Parties who choose to implement Regulations largely through type approval.

- The Administrative Committee of the 1958 Agreement (AC.1) is composed of all the Contracting Parties to the 1958 Agreement. The Administrative Committee oversees the process of developing and amending Regulations and adopts the Regulations or amendments to the Regulations once they are developed.
- The Agreement does not preclude those countries whose rules and regulations are implemented through self-certification (manufacturer's certification) from becoming Contracting Parties (Article 1 para. 1), and it recognizes self-certification as an alternative to type approval (Article 2).
- Under the Agreement, new Regulations and amendments to existing Regulations are established by a vote of two-thirds majority of Contracting Parties present and voting. The established Regulation is forwarded to the UN Secretary-General and then notified to each Contracting Party.
- The new Regulation or amendment to an existing Regulation enters into force for all Contracting Parties that have not notified the Secretary-General of their objection within six months after the notification, unless more than one-third of the Contracting Parties so object. If more than one-third of the Contracting Parties object, the Regulation or amendment does not enter into force for any Contracting Party.
- Regulations under the 1958 Agreement are required to include technical requirements and alternative requirements as appropriate; test methods by which performance requirements are to be demonstrated; the conditions for granting type approvals and their reciprocal recognition, including markings and conditions for ensuring conformity of production; and the date on which the Regulation enters into force. (Article 1 para. 2)
- A Contracting Party that has adopted an UNECE Regulation annexed to the Agreement is allowed to grant type approvals for motor vehicle equipment and parts covered by that Regulation and is required to accept the type approval of any other Contracting Party that has adopted the same Regulation.
- The Agreement also permits a Contracting Party, upon notice, to begin applying a Regulation after it has been annexed to the Agreement or to cease application of a Regulation that it has been applying. In the latter case the Contracting Party is required to notify the UN Secretary-General of its decision one year in advance.
- Contracting Parties granting type approvals are required to have the technical competence to grant the approvals and the competence to ensure conformity of production. Each Contracting Party applying the Regulation through type approval may refuse the approvals if the above-mentioned requirement is not met.

**CHART 2 - CONTRACTING PARTIES TO THE 1958 AGREEMENT**

CONCERNING THE ADOPTION OF UNIFORM TECHNICAL PRESCRIPTIONS FOR WHEELED VEHICLES, EQUIPMENT  
AND PARTS WHICH CAN BE FITTED AND/OR BE USED ON WHEELED VEHICLES AND THE CONDITIONS  
FOR RECIPROCAL RECOGNITION OF APPROVALS GRANTED ON THE BASIS OF THESE PRESCRIPTIONS  
(E/ECE/324-E/ECE/TRANS/505/Rev.2)

Date of entry into force: Original version: 20 June 1959  
Revision 1: 10 November 1967  
Revision 2: 16 October 1995

UNECE symbol	Contracting Party	Became Party to the Agreement on
E 1	GERMANY <u>1/</u>	28. 1.1966
E 2	FRANCE	20. 6.1959
E 3	ITALY	26. 4.1963
E 4	NETHERLANDS	29. 8.1960
E 5	SWEDEN	20. 6.1959
E 6	BELGIUM	5. 9.1959
E 7	HUNGARY	2. 7.1960
E 8	CZECH REPUBLIC <u>3/</u>	1. 1.1993
E 9	SPAIN	10.10.1961
E 10	YUGOSLAVIA <u>10/</u>	27. 4.1992
E 11	UNITED KINGDOM	16. 3.1963
E 12	AUSTRIA	11. 5.1971
E 13	LUXEMBOURG	12.12.1971
E 14	SWITZERLAND	28. 8.1973
E 15	-----	
E 16	NORWAY	4. 4.1975
E 17	FINLAND	17. 9.1976
E 18	DENMARK	20.12.1976
E 19	ROMANIA	21. 2.1977
E 20	POLAND	13. 3.1979
E 21	PORTUGAL	28. 3.1980
E 22	RUSSIAN FEDERATION	17. 2.1987
E 23	GREECE	5.12.1992
E 24	IRELAND <u>9/</u>	24. 3.1998
E 25	CROATIA <u>5/</u>	8.10.1991
E 26	SLOVENIA <u>2/</u>	25. 6.1991
E 27	SLOVAKIA <u>4/</u>	1. 1.1993
E 28	BELARUS	2. 7.1995
E 29	ESTONIA	1. 5.1995
E 30	-----	
E 31	BOSNIA AND HERZEGOVINA <u>6/</u>	6. 3.1992
E 32	LATVIA	18.1.1999
E 33	-----	
E 34	BULGARIA	21. 1.2000
E 35-36	-----	
E 37	TURKEY	27. 2.1996
E 38-39	-----	
E 40	THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA <u>7/</u>	17.11.1991
E 41	-----	
E 42	EUROPEAN COMMUNITY <u>8/</u>	24. 3.1998
E 43	JAPAN	24.11.1998
E 44	-----	
E 45	AUSTRALIA	25. 4. 2000
E 46	UKRAINE	30. 6. 2000
E 47	SOUTH AFRICA	17. 6. 2001
E 48	NEW ZEALAND	26. 1. 2002

1/ Effective 3 October 1990, the German Democratic Republic acceded to the Federal Republic of Germany.

2/ Succession to Yugoslavia, Depository notification C.N.439.1992.TREATIES-53 of 18 March 1993.

3/ Succession to Czechoslovakia, Depository notification C.N.229.1993.TREATIES of 14 December 1993.

4/ Succession to Czechoslovakia, Depository notification C.N.184.1993.TREATIES, received on 20 July 1994.

5/ Succession to Yugoslavia, Depository notification C.N.66.1994.TREATIES-10 of 31 May 1994.

6/ Succession to Yugoslavia, Depository notification C.N.35.1994.TREATIES of 2 May 1994.

7/ Succession to Yugoslavia, Depository notification C.N.142.1998.TREATIES-33 dated 4 May 1998.

8/ Approvals are granted by its Member States using their respective ECE symbol.

9/ By virtue of accession to the Agreement by the European Community on 24 March 1998.

10/ Succession to Yugoslavia, Depository notification C.N.276.2001.TREATIES-3 dated 2 April 2001.

## The 1998 Global Agreement

The 1998 Global Agreement was negotiated and concluded under the auspices of the UNECE, under the leadership of the European Community, Japan and the United States of America. It was opened for signature on 25 June 1998 and the United States of America became the first signatory. The Agreement establishes a process through which countries from all regions of the world can jointly develop global technical regulations regarding the safety, environmental protection systems, energy sources and theft prevention of wheeled vehicles, equipment and parts. The covered equipment and parts include, but are not limited to, vehicle construction, exhaust systems, tyres, engines, acoustic shields, anti-theft alarms, warning devices, and child restraint systems.

The ultimate goal of the 1998 Agreement is to continuously improve global safety, decrease environmental pollution and consumption of energy and improve anti-theft performance of vehicles and related components and equipment through globally uniform technical regulations. This shall be done whilst providing a predictable regulatory framework for a global automotive industry and for the consumers and their associations. Unlike the 1958 Agreement, the 1998 Global Agreement does not contain provisions for mutual recognition of approvals, thereby allowing countries which are not ready or are unable to assume the obligations of reciprocal recognition to engage in an effective way in the development of global technical regulations, regardless of the type of compliance and enforcement procedures of those countries. For the complete text of the Agreement, please refer to Annex III.

The 1998 Agreement entered into force on 25 August 2000 for eight Contracting Parties and it has currently 18 Contracting Parties and one signatory country. Chart 3 lists the Contracting Parties to the Agreement and the date of Application of the Agreement by those Parties.

### Principal Elements of the 1998 Global Agreement:

- Members of the UNECE, as well as other members of the United Nations and Economic Integration Organizations formed by countries that participate in UNECE activities, are eligible to become Contracting Parties to the 1998 Agreement. Specialized agencies and organizations that have been granted consultative status in accordance with the provisions of the Agreement may participate in that capacity in the deliberations of particular concern to that agency or organization. (Article 2)
- The Executive Committee of the 1998 Agreement is composed of all the Contracting Parties of the Agreement. The Executive Committee oversees the process of recommending, developing and amending global technical regulations and adopts the global technical regulations or amendments to the regulations once they are developed.

- The Agreement explicitly recognizes the importance of continuously improving and seeking high levels of safety and environmental protection and the right of national and subnational authorities to adopt and maintain technical regulations that are more stringently protective of health and the environment than those established at the global level. (Preamble)
- The Agreement explicitly states that one of its purposes is to ensure that actions under the Agreement do not promote, or result in, a lowering of safety and environmental protection within the jurisdiction of the Contracting Parties, including the subnational level. (Article 1)
- To the extent consistent with achieving high levels of environmental protection and vehicle safety, the Agreement also seeks to promote global harmonization of wheeled vehicle and engine regulations. (Preamble)
- The Agreement emphasizes that the development of global technical regulations will be transparent. (Article 1)
- Annex A of the Agreement provides that the term "transparent procedures" includes the opportunity to have views and arguments represented at:
  - (1) meetings of WP.29 and Working Parties through organizations granted consultative status; and
  - (2) meetings of WP.29 Working Parties and of the Executive Committee through pre-meeting consulting with representatives of Contracting Parties.
- The Agreement provides two different paths to the establishment of global technical regulations. The first is the harmonization of existing regulations or standards. The second is the establishment of a new global technical regulation where there are no existing regulations or standards. (Article 6 paras. 6.2 and 6.3) (see Chart 4)
- The Agreement calls for existing regulations of Contracting Parties needing harmonization to be listed in the Compendium of Candidate Global Regulations in order to facilitate their transition to global regulations. The regulation is added to the Compendium if supported by a vote of one-third of the Contracting Parties present and voting, including the vote of either Japan, the European Community or the United States of America. The Compendium will expand and contract in direct proportion to the existence of regulations needing harmonization. (Article 5)
- The process for developing a harmonized global technical regulation includes a technical review of existing regulations of the Contracting Parties and of the UNECE Regulations, as well as relevant international voluntary standards (e.g., standards of the International Organization for Standardization). If available, comparative assessments of the benefits of these regulations (also known as functional equivalence assessments) are also reviewed. (Article 1, para. 1.1.2 and Article 6, para. 6.2.)

- The process for developing a new global technical regulation includes the assessment of technical and economic feasibility and a comparative evaluation of the potential benefits and cost effectiveness of alternative regulatory requirements and the test method(s) by which compliance is to be demonstrated. (Article 6, para. 6.3.)
- The process for amending any global technical regulation follows the same procedures specified in paragraph 6.3 for establishing the global regulation. (Article 6, para. 6.4.)
- To establish a new global technical regulation, there must be a consensus vote. Thus, if any Contracting Party votes against a recommended global technical regulation, it would not be established. (Annex B, Article 7, para. 7.2.)
- Once harmonized or developed, global technical regulations will be established in a Global Registry, which will serve as a repository of global technical regulations that could be adopted by countries from around the world.
- The establishment of a global technical regulation does not obligate Contracting Parties to adopt that global technical regulation into its own laws and regulations. Contracting Parties retain the right to choose whether or not to adopt any technical regulation established as a global technical regulation under the Agreement. (Preamble, Article 7)
- Consistent with the recognition of that right, Contracting Parties have only a limited obligation when a global technical regulation is established under the Agreement. If a Contracting Party voted to establish the global technical regulation, that Contracting Party must initiate the procedures used by the Party to adopt such a global technical regulation as a domestic regulation. (Article 7). Other obligations under the Agreement deal with the notification of the decision to adopt a global technical regulation and the effective date of application of that regulation, the notification of the decision not to adopt the regulation, the decision to rescind or amend a global technical regulation, etc.
- The Agreement allows for global technical regulations to contain a “global” level of stringency for most parties and ‘alternative‘ levels of stringency for developing countries. In this way, all countries, including the least developed ones, can participate in the development, establishment and adoption of global technical regulations. It is anticipated that a developing country may wish to begin by adopting one of the lower levels of stringency and later successively adopt higher levels of stringency. (Article 4)

**CHART 3 - CONTRACTING PARTIES TO THE 1998 GLOBAL AGREEMENT**

CONCERNING THE ESTABLISHING OF GLOBAL TECHNICAL REGULATIONS FOR WHEELED VEHICLES,  
EQUIPMENT AND PARTS WHICH CAN BE FITTED AND/OR BE USED ON WHEELED VEHICLES

(E/ECE/TRANS/132 and Corr.1)

Date of entry into force: Original version:25 August 2000

Contracting Party	Signature / ratification / acceptance / accession date	Application of the Agreement on:
CANADA	22 June 1999 (s)	25 August 2000
UNITED STATES OF AMERICA	26 July 1999 (A)	25 August 2000
JAPAN	3 August 1999 (A)	25 August 2000
FRANCE	4 January 2000 (AA)	25 August 2000
UNITED KINGDOM	10 January 2000(s) (s)	25 August 2000
EUROPEAN COMMUNITY	15 February 2000 (AA)	25 August 2000
GERMANY	11 May 2000 (s)	25 August 2000
RUSSIAN FEDERATION	26 July 2000 (s)	25 August 2000
PEOPLE'S REPUBLIC CHINA	10 October 2000 (A)	9 December 2000
REPUBLIC OF KOREA	2 November 2000 (a)	1 January 2001
ITALY	1 December 2000(a) (a)	30 January 2001
SOUTH AFRICA	18 April 2001 (A)	17 June 2001
FINLAND	8 June 2001 (a)	7 August 2001
HUNGARY	22 June 2001 (a)	21 August 2001
TURKEY	3 July 2001 (a)	1 September 2001
SLOVAKIA	7 November 2001 (a)	6 January 2002
NEW ZEALAND	27 November 2001 (a)	26 January 2002
NETHERLANDS	4 January 2002 (a)	5 March 2002
SPAIN	[ ] (A) */	[ ]

- (s) Definitive signature  
(A) Ratification, Acceptance  
(AA) Approval  
(a) Accession

\*/ Signed, subject to ratification on 24 August 2000

## The 1997 Agreement on Periodical Technical Inspections

The 1997 Agreement was done at Vienna on 13 November 1997, during the UNECE Regional Conference on Transport and the Environment and signed by 23 countries (see Chart 4). The Agreement provides the legal framework and procedures for the adoption of uniform Rules for carrying out technical inspections of vehicles in use and for reciprocal recognition of the certificates of such inspections. For the complete text of the Agreement, please refer to Annex IV.

The 1997 Agreement entered into force on 27 January 2001 for five Contracting Parties. It has currently six Contracting Parties and ratification by the other 18 signatory countries is awaited. Chart 4 lists the Contracting Parties to the Agreement and the date of application of the Agreement by those Parties.

Draft Rule No. 1 had been proposed, and endorsed by the ECE Regional Conference on Transport and the Environment. The Administrative Committee of the Agreement at its first session adopted it on 8 March 2001, and it entered into force on 4 December 2001, and was annexed to the Agreement. Rule No. 1 addresses the environmental performance of passenger vehicles carrying more than eight passengers and goods vehicles, both with maximum mass exceeding 3.5 tonnes and used in international transport.

A proposal for draft Rule No. 2 addressing safety of the same categories of vehicles is under consideration by WP.29. It is foreseen that in the future the Agreement may be extended to address all categories of vehicles in international as well as in domestic transport.

Application of the 1997 Agreement on Periodical Technical inspections and its Rule No. 1 is required by the amendment to the 1971 European Agreement supplementing the 1968 Convention on Road Traffic. This amendment to the 1971 Agreement, seeking improved protection of the environment in Europe, entered into force on 27 January 2001. In accordance with the amendment to the 1971 European Agreement, the inspection itself and the international technical inspection certificate, confirming that the vehicle has been inspected in accordance with the Rules annexed to the Agreement, will be required only two years after the entry into force of the amendment, i.e. as from 27 January 2003.

### Principal Elements of the 1997 Agreement:

- Members of the UNECE, as well as other members of the United Nations and Regional Economic Integration Organizations that participate in UNECE activities, are eligible to become Contracting Parties to the 1997 Agreement. (Article 4)
- The 1997 Agreement provides the legal framework and procedures for the adoption of uniform Rules for carrying out technical inspections of vehicles in use and for the reciprocal recognition of the certificates of such inspections.

- Under the Agreement new Rules and amendments to existing Rules are established by a vote of two-thirds majority of Contracting Parties present and voting. The established Rule is forwarded to the UN Secretary-General and then notified to each Contracting Party. (Articles 1 and 2)
- The new Rule or amendment to an existing Rule enters into force for all Contracting Parties that have not notified the Secretary-General of their objection within six months after the notification, unless more than one-third of the Contracting Parties so object. If more than one-third of the Contracting Parties object, the Rule or amendment does not enter into force for any Contracting Party.
- Rules under the 1997 Agreement list items to be inspected and the principal reasons for rejection. The inspection techniques shall use currently available equipment without dismantling or removing any part of the vehicle.
- The International Technical Inspection Certificate issued by designated inspection authority of a Contracting Party shall be reciprocally recognized by other Contracting Parties applying the same Rule(s).
- The Agreement also permits a Contracting Party, upon notice, to begin applying a Rule after it has been annexed to the Agreement or to cease application of a Rule that it has been applying. In the latter case the Contracting Party is required to notify the UN Secretary-General of its decision one year in advance.

**CHART 4** - CONTRACTING PARTIES TO THE 1997 AGREEMENT

CONCERNING THE ADOPTION OF UNIFORM CONDITIONS FOR PERIODICAL TECHNICAL INSPECTIONS OF  
WHEELED VEHICLES AND THE RECIPROCAL RECOGNITION OF SUCH INSPECTIONS

(ECE/RCTE/CONF.4)

Date of entry into force: Original version: 27 January 2001

Contracting Party	Signature / ratification / acceptance / accession date	Application of the Agreement on
RUSSIAN FEDERATION	13 November 1997 (s)	27 January 2001
ESTONIA	9 September 1998 (a)	27 January 2001
NETHERLANDS	5 February 1999 (A)	27 January 2001
ROMANIA	24 February 1999 (A)	27 January 2001
HUNGARY	28 November 2000 (A)	27 January 2001
FINLAND	20 April 2001 (A)	19 June 2001
AUSTRIA	[ ] */	
BELGIUM	[ ] */	
CYPRUS	[ ] */	
CZECH REPUBLIC	[ ] */	
DENMARK	[ ] */	
FRANCE	[ ] */	
GEORGIA	[ ] */	
GERMANY	[ ] */	
GREECE	[ ] */	
IRELAND	[ ] */	
ITALY	[ ] */	
PORTUGAL	[ ] */	
SLOVAKIA	[ ] **/	
SPAIN	[ ] */	
SWEDEN	[ ] */	
SWITZERLAND	[ ] */	
UNITED KINGDOM	[ ] */	
UKRAINE	[ ] */	

- (s) Definitive signature  
(A) Ratification, Acceptance  
(AA) Approval  
(a) Accession

\*/ Signed, subject to ratification on 13 November 1997

\*\*/ Signed, subject to ratification on 29 June 1998

## Chapter V

### **WP.29 Regulation Development Process**

The evolution of WP.29 into a World Forum has required the adoption by WP.29 of a uniform process for the development of new regulations and the harmonization or amendment of existing regulations, consistent with the requirements set forth in the multilateral Agreements administered by WP.29. While each Agreement contains specific requirements attendant to the adoption and implementation of regulations or amendments by their Contracting Parties, the technical development process that ultimately results in a recommended regulation or an amendment of a regulation is fundamentally the same for all Agreements. The process that is presented below describes the sequence of events, key elements and the responsibilities of the various subsidiary bodies of WP.29 in the development, harmonization or the amendment of regulations and is applicable to all other technical activities of WP.29 (see Charts 5 and 6).

#### Introduction of Proposed Work and Regulatory Actions

The initiation of all regulatory development activities under any Agreement administered by WP.29 follows a common process. The first step is the submission of a written proposal to be considered by WP.29. Only participants as defined in the Terms of Reference and Rules of Procedure of WP.29 may submit a proposal. This proposal is presented for consideration to the Administrative Committee for the Coordination of Work (WP.29/AC.2) and, if deemed consistent with the safety, environmental protection and anti-theft mandates of WP.29 it is proposed to WP.29 for placement on a proposed work agenda.

#### Work Agenda of WP.29

The participants in WP.29 review and discuss all work that is recommended by WP.29/AC.2 for the agenda and, where agreed in accordance with the Terms of Reference and the Rules of Procedure of WP.29, modify and adopt the agenda of work. WP.29 then identifies which of the subsidiary Working Parties (see Chapter X of the Rules of Procedure) will be given the responsibility of carrying out the specific technical work consistent with the requirements set forth in the relevant Agreement(s), where appropriate.

#### Technical Regulation Development

The subsidiary Working Party of WP.29 (GR) will address the development, harmonization or amendment of the technical requirements of regulations regarding wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles. Typically, the work includes, but is not limited to, such areas as test methodologies, limit values, vehicle or component design and/or performance standards, approval or certification markings, etc.

Since the regulations developed under WP.29 are "optional", they do not carry the force of law until they are adopted and implemented by Contracting Parties to an Agreement into their national laws (see Annex VI for several national and regional regulatory and enforcement schemes). Hence, those elements of a regulation that relate to its adoption and implementation are considered to be the political jurisdiction of the Contracting Parties to the specific Agreements.

Such elements include methods of conformity assessment (type approval, self-certification, etc.), certification procedures, reciprocal recognition, dates of entry into force and enforcement procedures, and they are contained in an annex to the recommended regulation for establishment or adoption under the terms of the specific Agreements. In developing those elements, the GR must take into consideration the "technical" implications of implementation as set forth in relevant Agreements (see annexes II, III and IV).

In developing the regulations, a GR must give consideration to:

- objective(s) of the new regulation or amendments to an existing regulation such as improved vehicle safety, reduced environmental impacts, energy efficiency, and theft deterrence;
- best available technology and, where appropriate, possible incremental improvements in technology that will provide significant steps in achieving the regulatory objectives and public benefits;
- the potential benefits attendant to the various levels of technology and attendant to levels of regulatory stringency or performance;
- the costs, both monetary and social, that may be attendant to each level of regulatory stringency or performance;
- the relationship or potential interaction of a specific technical regulation to other regulations currently in force or to be adopted by Contracting Parties to existing Agreements administered by WP.29.

Throughout the regulatory development process or the amending process, the GR presents progress reports on its work to WP.29, and where directed by WP.29, makes revisions and conducts additional investigations to resolve new issues attendant to its work assignments. Upon the completion of its work, the GR presents a final recommendation for a regulation or amendment to WP.29.

#### WP.29 Review and Recommendations

Upon the receipt of a final recommendation from a GR regarding a new, harmonized or amended regulation, WP.29 begins a review and a discussion of the recommendation by all participants. Absent any substantive objections and requests for further work by the GR, WP.29 will formally submit the recommendation to the Executive Committee of the relevant Agreement(s) for its (their) consideration for establishment or adoption as an UNECE Regulation, global technical regulation, Rule, or amendment to any of those existing.

## Establishment or Adoption of Regulations and Amendments to Regulations

The Executive Committee of the relevant Agreement (AC.1 for the 1958 Agreement; AC.3 for the 1998 Global Agreement; and AC.4 for the 1997 Agreement on Periodical Technical Inspections) will review the recommended action to determine if it is consistent with the provisions and requirements set forth in the respective Agreements. Having made a determination of consistency, the Executive Committee(s) will vote, in accordance with the terms of their respective Agreements, to establish or adopt the recommended regulation, rule or amendment. Failure to establish a global technical regulation under the 1998 Agreement does not preclude its adoption as an UNECE Regulation under the 1958 Agreement and vice versa. Upon its establishment or adoption, the Executive Committee(s) will request the UNECE Secretariat to forward to the Secretary-General of the United Nations, the established or adopted regulation, rule or amendment with their request that it be formally established under the UNECE. A new Regulation adopted under the 1958 Agreement will have the designation: E/ECE/324-E/ECE/TRANS/505/Rev.2/Add.#. A global technical regulation established in the Global Registry under the 1998 Global Agreement will have the designation: ECE/TRANS/132/GTR/#. A Rule established under the 1997 Agreement on Periodical Technical inspections shall become: ECE/RCTE/CONF./4/Add.#.

## Information on Regulations

Detailed information on the status of the UNECE Regulations annexed to the 1958 Agreement, global technical regulations established in the Global Registry of the 1998 Global Agreement and the Rules annexed to the 1997 Agreement on Periodical Technical Inspections can be received via the Internet in the website of WP.29: <http://www.unece.org/trans/main/welcwp29.htm>

UNECE Regulations annexed to the 1958 Agreement may be ordered (purchased from):

United Nations Office at Geneva  
Conference Services Division  
Distribution and Sales Section, Office C.115-1  
Palais des Nations  
CH-1211 GENEVA 10, Switzerland

Fax: (+41-22) 91-70027  
E-mail: [unpubli@un.org](mailto:unpubli@un.org)

## Chapter VI

### **Special Considerations and Actions Attendant to Agreements Administered by WP.29**

"Agreement Concerning the Establishing of Global Technical Regulations for Wheeled Vehicles, Equipment and Parts which can be Fitted and/or be Used on Wheeled Vehicles"  
(1998 Agreement)

The 1998 Agreement includes six unique and significant provisions for the development and establishment of global technical regulations.

- It provides for the consideration of regulatory development proposals from Contracting Parties to the Agreement (Article 3)
- It specifies the criteria required for the harmonization of regulations from the Compendium and existing UNECE Regulations, the development of new global technical regulations and the amendment of existing global technical regulations. (Article 4)
- It requires the establishment of a Compendium of Candidate Global Technical Regulations. The Compendium consists of existing national or regional regulations that are selected as candidates for global harmonization. (Article 5)
- It requires the establishment of a Registry of Global Technical Regulations. (Article 6)
- It specifies the process for the amendment of established global technical regulations. (Article 6)
- It requires the consensus of all Contracting Parties for the establishment or amendment of a global technical regulation. (Article 6, para. 6.3.)

The Agreement does not obligate Contracting Parties to a specific conformity assessment regime (i.e. type approval, self-certification, etc.) or to commit to reciprocal recognition of regulations adopted by other Contracting Parties nor does it impose an enforcement regime. In this regard the Agreement preserves the sovereign rights of each Contracting Party to implement and enforce the global technical regulation in accordance with their respective national or regional regulatory process and/or laws. For a more detailed description please refer to Annex III.

"Agreement Concerning the Adoption of Uniform Technical Prescriptions for Wheeled Vehicles, Equipment and Parts which can be Fitted and/or be Used on Wheeled Vehicles and the Conditions for Reciprocal Recognition of Approvals Granted on the Basis of These Prescriptions"  
(1958 Agreement as revised in 1995)

The 1958 Agreement has a long history of regulatory development that was originally designed to facilitate the free movement and sale of wheeled vehicles across State borders within a region of Europe. To achieve this objective the Agreement included various provisions to reduce the burden of repetitive regulatory testing and certifications by Contracting Parties. Subsequent amendments to the Agreement, as described earlier, have served to expand its scope of activities

and to attract the participation of countries outside the original European region and from other parts of the world. However, the Agreement still contains certain original provisions that preclude some countries from becoming contracting parties due to their national laws. The unique provisions of the 1958 Agreement include:

- Conditions for granting type approval for the verification that a vehicle, equipment or part submitted by a manufacturer conforms to the requirements of a given UNECE Regulation. Such type approval verification may be carried out by a competent authority designated by the certifying Contracting Party. (Article 1)
- Conditions requiring the reciprocal recognition by Contracting Parties of approvals issued by other Contracting Parties. (Article 1)
- Conditions that result in the adoption of a Regulation if, within a period of six months from its notification to Contracting Parties by the UN Secretary-General, not more than one-third of the Contracting Parties at the time of notification have informed the Secretary-General of their disagreement with the Regulation. (Article 1)
- Conditions that establish the date(s) on which the Regulation will enter into force for all Contracting Parties which did not notify the Secretary-General of disagreement. (Article 1)
- Conditions that any Contracting Party applying a Regulation that is annexed to the Agreement shall hold products type approved to be in conformity with the legislation of all the Contracting Parties applying the said Regulation through type approval. (Article 3)
- Conditions that require the notification of the competent authority of the Contracting Party that has issued a type approval for a product, by a Contracting Party whose competent authority has determined said product does not conform to the approved type(s) of product. The issuing Contracting Party shall notify all other Contracting Parties applying the Regulation through type approval of the steps it has taken to bring the product into conformity. (Article 4)
- Conditions that require the competent authorities of each Contracting Party applying UNECE Regulations through type approval to send monthly to the competent authorities of other Contracting Parties a list of products, approvals of which it has refused to grant or has withdrawn during that month. (Article 5)

For a more detailed description of the above conditions please refer to Annex II.

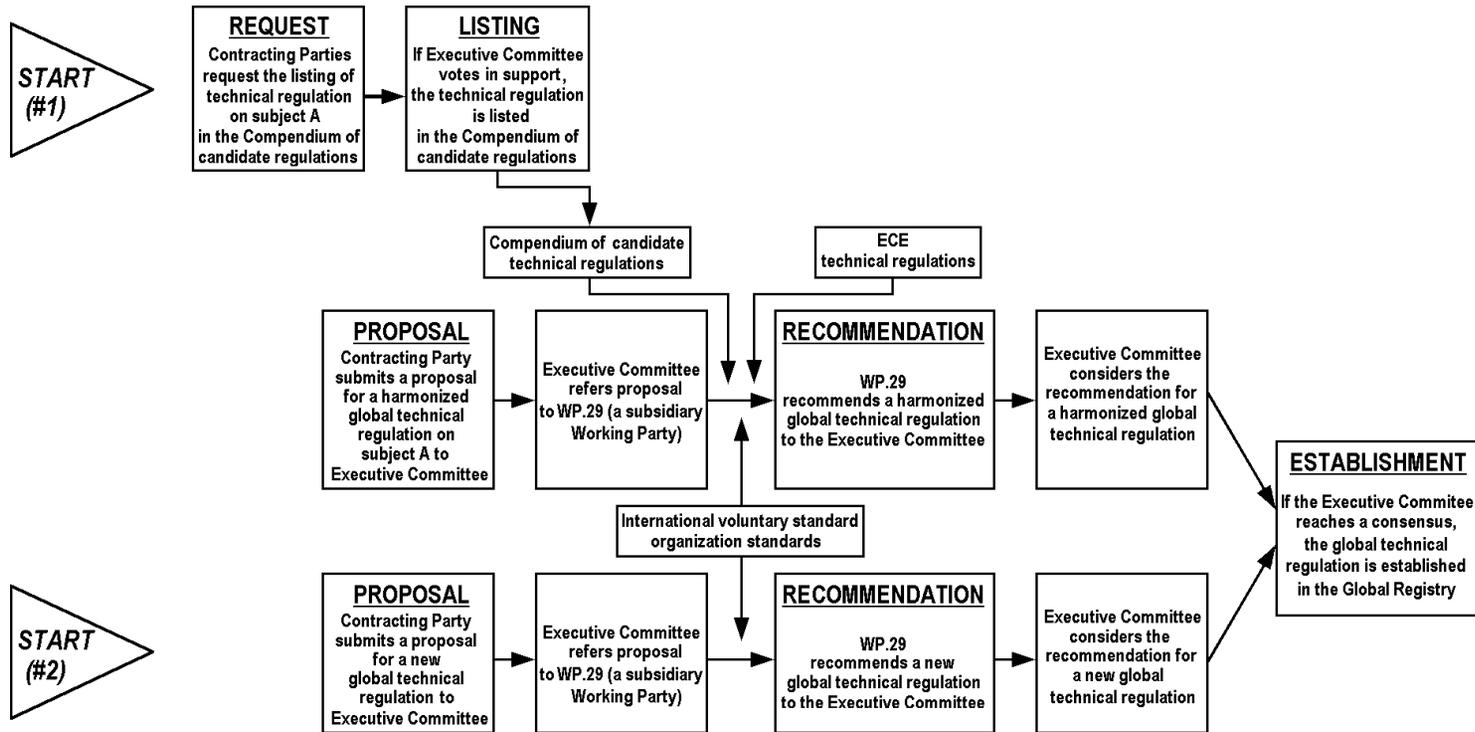
“Agreement Concerning the Adoption of Uniform Conditions for Periodical Technical Inspections of Wheeled Vehicles and the Reciprocal Recognition of such Inspections” (1997 Agreement)

The 1997 Agreement was designed to ensure that vehicles in operation would be properly maintained and inspected in order to preserve throughout their useful life the performance which they had been guaranteed by type approval, without an excessive degradation.

The provisions of the 1997 Agreement for establishing the Rules to be annexed to the Agreement were made parallel to those of the 1958 Agreement, well proved in practice.

For a more detailed description please refer to Annex IV.

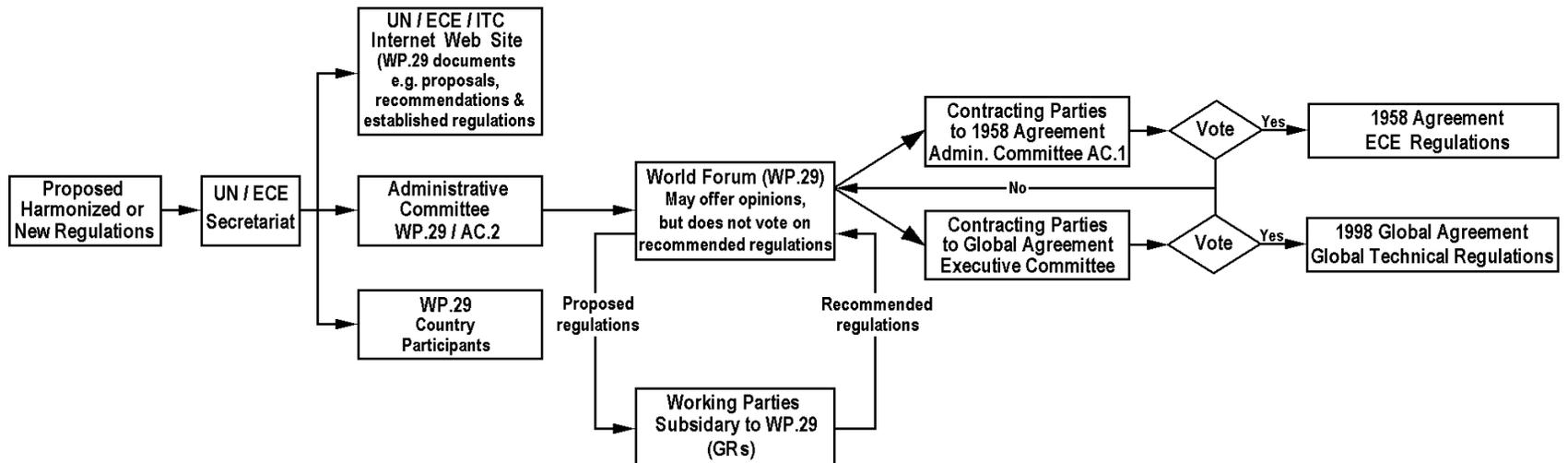
**CHART 5**  
 Establishing Global Technical Regulations  
 Harmonized (#1) & New (#2)



**CHART 6**

UNECE World Forum 29

Consideration and Establishment of Regulations



Annex I

**TERMS OF REFERENCE AND RULES OF PROCEDURE OF THE  
WORLD FORUM FOR HARMONIZATION OF VEHICLE REGULATIONS (WP.29)**

(Reproduction of document TRANS/WP.29/690)

## TERMS OF REFERENCE OF WP.29

1. The World Forum for Harmonization of Vehicle Regulations (WP.29) (hereinafter referred to as WP.29), acting within the framework of the policies of the United Nations and the Economic Commission for Europe (hereinafter ECE) and subject to the general supervision of the Inland Transport Committee (ITC) shall, provided such actions are in conformity with the Terms of Reference of the ECE (document E/ECE/778 Rev. 3) and consistent with the Agreements listed in Annex 1:
  - (a) Initiate and pursue actions aiming at the harmonization or development of technical regulations or amendments to such regulations which may be accepted world-wide, and which are directed at improving vehicle safety, protecting the environment, promoting energy efficiency and anti-theft performance, providing uniform conditions for periodical technical inspections and strengthening economic relations world-wide, according to the objectives laid down in the respective Agreements.
  - (b) Foster the reciprocal recognition of approvals, certificates and periodical technical inspections among Contracting Parties to the Agreements that expressly provide for such action.
  - (c) Serve as the specialised technical body for the relevant Agreements established under the auspices of the United Nations Economic Commission for Europe, Inland Transport Committee. Its function is to develop recommendations regarding the establishment or amendment of technical regulations which may be accepted world-wide and regarding uniform conditions for periodical technical inspections, consistent with the provisions of those Agreements.
  - (d) Foster world-wide participation in its activities by encouraging cooperation and collaboration with countries and regional economic integration organizations (REIOs) not yet participating in WP.29 activities, with regard to technical matters that come before WP.29.
  - (e) Encourage all its participants to apply or adopt into their law world-wide harmonized technical regulations and conditions for periodical inspections.
  - (f) Develop a work programme attending the respective Agreements in a coordinated and coherent manner.
  - (g) Create a working environment that facilitates the fulfilment by Contracting Parties of their obligations set forth in the respective Agreements.
  - (h) Ensure openness and transparency during the sessions.
2. These Terms of Reference and the Rules of Procedure apply to WP.29 and do not modify the provisions of the Agreements listed in Annex 1.

## **RULES OF PROCEDURE OF WP.29**

### **CHAPTER I**

#### **Participation**

##### **Rule 1**

- (a) Countries which are specified in paragraph 7 of the Terms of Reference of the ECE (document E/ECE/778/Rev.3) shall be participants.

Countries which are covered by paragraph 11 of the Terms of Reference of the ECE and are Contracting Parties to any of the Agreements listed in Annex 1 shall be participants.

Regional economic integration organizations (REIOs) which are set up by countries that are members of the ECE or members of the United Nations and are Contracting Parties to any of the Agreements listed in Annex 1 shall be participants.

- (b) Countries which are covered by paragraph 11 of the Terms of Reference of the ECE may, after notification to the Secretariat, participate in a consultative capacity in WP.29 in the consideration of any matter of particular concern to that member.
- (c) Agencies and organizations which are covered by paragraphs 12 and 13 of the Terms of Reference of the ECE may, after notification to the Secretariat, participate in a consultative capacity in WP.29 in the consideration of any matter of particular concern to those agencies or organizations.

### **CHAPTER II**

#### **Sessions**

##### **Rule 2**

Sessions shall be held on dates fixed by the ECE Executive Secretary.

##### **Rule 3**

Sessions shall ordinarily be held at the United Nations Office at Geneva (UNOG), Switzerland. If WP.29 decides to hold a particular session elsewhere, the relevant UN rules and regulations shall apply.

##### **Rule 4**

The Secretariat shall, at least six (6) weeks before the commencement of a session, distribute a notice of the opening date of said session, together with a copy of the provisional agenda. The basic documents relating to each item appearing on the provisional agenda of a session shall be available on the WP.29 website of the Internet and a hard copy shall be transmitted not less than (6) weeks before the opening of the session. In exceptional cases, the Secretariat may distribute basic documents at the session. Participants, as defined in Rule 1, may

distribute informal documents, after the authorization by the Chairperson in consultation with the Secretariat, prior to or during a session. Such informal documents shall relate to items on the adopted agenda of the respective meeting. Where possible, the Secretariat (see Chapter VI) shall make the informal documents available on the WP.29 website of the Internet.

### CHAPTER III

#### Agenda

##### Rule 5

The provisional agenda for each session of WP.29 shall be drawn up by the Secretariat in consultation with the Administrative Committee for the Coordination of Work (WP.29/AC.2) (see Chapter IX).

##### Rule 6

The provisional agenda for any session of WP.29 shall include:

- (a) Items related to any of the Agreements listed in Annex 1.
- (b) Items arising from previous sessions of WP.29;
- (c) Items proposed by any WP.29 participant and accepted for the programme of work of WP.29;
- (d) Items proposed by the Chairperson or Vice-Chairperson of any subsidiary body of WP.29;
- (e) Any other items which the Chairperson or Vice-Chairperson of WP.29, or the Secretariat sees fit to include.

##### Rule 7

The first item upon the provisional agenda for each session shall be the adoption of the agenda.

##### Rule 8

WP.29 may amend the agenda at any time.

##### Rule 9

The provisional agenda for each session of any subsidiary body of WP.29 (see Chapter X and Annex 2) shall be drawn up by the Secretariat in consultation with the Chairperson and/or Vice-Chairperson of that body, and shall correspond with the programme of work adopted by WP.29. Previous meetings shall, in general, establish the framework for the agenda of the next meeting.

CHAPTER IV  
Representation and Credentials

Rule 10

Each participant, as defined in Rule 1, shall be represented at sessions of WP.29 and its subsidiary bodies by an accredited representative(s).

Rule 11

The representative defined in Rule 10 above may be accompanied to the sessions of WP.29 by an alternate representative and advisors and, when absent, the representative may be replaced by an alternate representative.

Rule 12

The accreditation of each representative appointed to WP.29, together with a designation of an alternate representative, shall be submitted to the Secretariat prior to the date of each session of WP.29 and its subsidiary bodies.

CHAPTER V  
Officers

Rule 13

WP.29 shall, at the end of its last session of the year, elect from the representatives of participants as defined in Rule 1(a) a Chairperson and Vice-Chairperson(s), who shall take office at the start of the first session of the following year. The number of Vice-Chairpersons may vary from year to year depending upon need. The officers shall be eligible for re-election.

Rule 14

If the Chairperson ceases to represent a participant, or can no longer hold office, one of the Vice-Chairpersons, designated by the participants as defined in Rule 1(a), shall become Chairperson for the unexpired portion of the term. In that case, or if one of the Vice-Chairpersons ceases to represent a participant, or can no longer hold office, WP.29 shall elect another Vice-Chairperson for the unexpired portion of the term.

Rule 15

The Vice-Chairperson acting as Chairperson shall have the same powers and carry out the same duties as the Chairperson.

Rule 16

The Chairperson or the Vice-Chairperson acting as Chairperson shall participate in WP.29 in this capacity and not as the representative of the participant, as defined in Rule 1(a), by whom

he or she was accredited. WP.29 shall admit an alternate representative to represent that participant, and to exercise its right to vote.

CHAPTER VI  
Secretariat

Rule 17

The Secretariat, acting in the framework of the Transport Division of the ECE Secretariat, shall provide administrative support for all sessions, including preparation of the session reports. Reports of WP.29 shall be adopted at the end of each session. Reports of the subsidiary bodies of WP.29 shall be prepared by the Secretariat for subsequent consideration and endorsement by WP.29.

Rule 18

During the sessions, the Secretariat shall assist WP.29 and its subsidiary bodies in complying with these Rules of Procedure.

CHAPTER VII  
Conduct of Business

Rule 19

The sessions of WP.29 and its subsidiary bodies shall be held in public.

Rule 20

The Secretariat, in consultation with WP.29/AC.2, may decide not to hold a session if the substance of the provisional agenda or the number of accredited representatives is determined to be insufficient.

Rule 21

The conduct of business shall be in accordance with Rules 24 to 33 of the Rules of Procedure of the ECE, unless otherwise provided herein.

Rule 22

The Chairperson may limit the time allowed to each speaker.

Rule 23

Every representative has the right to declare his or her position and have it reflected in the session report.

## CHAPTER VIII

### Voting

#### Rule 24

Each participant, as defined in Rule 1(a), other than REIOs, shall have one vote. REIOs, as defined in Rule 1(a), may only vote in lieu of their Member States and with the number of votes of their Member States that are participants in WP.29.

#### Rule 25

Decisions of WP.29 shall be made by a majority of the participants as defined in Rule 1(a), present and voting, and in accordance with Rule 24 above.

#### Rule 26

The voting shall be in accordance with Rules 37 to 39 of the Rules of Procedure of the ECE, unless otherwise provided herein.

#### Rule 27

Voting under the Agreements listed in Annex 1 shall be in accordance with the voting rules specified in the respective Agreement.

## CHAPTER IX

### Administrative Committee

#### Rule 28

WP.29 shall form an Administrative Committee for the Coordination of Work, to be known as WP.29/AC.2. In particular, WP.29/AC.2 shall:

- (a) Develop and recommend a programme of work to WP.29, giving consideration to requests from participants, as defined in Rule 1, and the relevance and priority of such requests, in particular with regard to the Agreements listed in Annex 1;
- (b) Consider the reports and recommendations from the subsidiary bodies, and identify those items that require action by WP.29 and the time frame for their consideration;
- (c) Provide recommendations to WP.29 on any other work that is within the scope of WP.29's activities; and
- (d) Develop and recommend to WP.29 the provisional agenda for sessions of WP.29.

## Rule 29

Participants in WP.29/AC.2 shall be:

- (a) The Chairperson and the Vice-Chairperson(s) of WP.29;
- (b) The Chairperson and the Vice-Chairperson(s) of the Administrative or Executive Committee attendant to each Agreement listed in Annex 1, and representatives of the European Community, Japan, and the United States of America; and
- (c) The Chairperson and the Vice-Chairperson of each subsidiary body of WP.29 in accordance with Chapter X of these Rules of Procedure.

## Rule 30

WP.29/AC.2. may invite other persons to participate in a consultative capacity.

## Rule 31

WP.29/AC.2 shall meet prior to each session of WP.29, with notice given by the Secretariat in accordance with Rule 4.

## Rule 32

The meetings of WP.29/AC.2 shall be convened by the Secretariat in consultation with the Chairperson, and the Secretariat shall participate in accordance with the Rules of Chapter VI.

## Rule 33

The Chairperson of WP.29 shall serve as the Chairperson of WP.29/AC.2 unless decided otherwise by WP.29/AC.2.

## CHAPTER X Subsidiary bodies of WP.29

### Rule 34

WP.29 may propose to the ITC to establish a new subsidiary body or to dissolve an existing one, and shall provide justification for such action.

### Rule 35

Subsidiary bodies of WP.29 shall apply the Rules of Procedure of WP.29, as appropriate.

#### Rule 36

Each subsidiary body shall be comprised of experts accredited by participants, as defined in Rule 1.

#### Rule 37

Each subsidiary body of WP.29 shall, at the end of its last session of each year, elect from the experts accredited by participants, as defined in Rule 1(a), a Chairperson, and, if desired, a Vice-Chairperson.

#### Rule 38

In carrying out its work and developing its recommendations, each subsidiary body shall give consideration to technical issues as elaborated in the Agreements listed in Annex 1 and other relevant technical matters. Any documentation relating to its recommendation shall be provided to the Secretariat, and shall be made available to the public.

### CHAPTER XI Amendments

#### Rule 39

Any of these Rules of Procedure may be amended, in accordance with Rule 25.

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## Annex 1

### List of Agreements related to WP.29

Agreement concerning the Adoption of Uniform Technical Prescriptions for Wheeled Vehicles, Equipment and Parts which can be Fitted and/or be Used on Wheeled Vehicles and the Conditions for Reciprocal Recognition of Approvals Granted on the Basis of these Prescriptions, done at Geneva on 20 March 1958 (including the amendments entered into force on 16 October 1995)  
(document E/ECE/324-E/ECE/TRANS/505/Rev.2)

Agreement concerning the Adoption of Uniform Conditions for Periodical Technical Inspections of Wheeled Vehicles and the Reciprocal Recognition of such Inspections, done at Vienna on 13 November 1997  
(document ECE/RCTE/CONF./4)

Agreement concerning the Establishing of Global Technical Regulations for Wheeled Vehicles, Equipment and Parts which can be Fitted and/or be Used on Wheeled Vehicles, done at Geneva on 25 June 1998  
(documents ECE/TRANS/132 and ECE/TRANS/132/Corr.1)

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## Annex 2

### Subsidiary bodies of WP.29

Working Party on Pollution and Energy	(GRPE)
Working Party on General Safety Provisions	(GRSG)
Working Party on Brakes and Running Gear	(GRRF)
Working Party on Lighting and Light-Signalling	(GRE)
Working Party on Passive Safety	(GRSP)
Working Party on Noise	(GRB)

Annex II

**AGREEMENT**  
**CONCERNING THE ADOPTION OF UNIFORM TECHNICAL PRESCRIPTIONS**  
**FOR WHEELED VEHICLES, EQUIPMENT AND PARTS WHICH CAN BE FITTED**  
**AND/OR BE USED ON WHEELED VEHICLES AND THE CONDITIONS**  
**FOR RECIPROCAL RECOGNITION OF APPROVALS**  
**GRANTED ON THE BASIS OF THESE PRESCRIPTIONS \*/**

Revision 2

(Including the amendments entered into force on 16 October 1995)

(reproduction of document E/ECE/324 – E/ECE7TRANS/505/Rev.2)

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\*/ Former title of the Agreement:

Agreement concerning the Adoption of Uniform Conditions of Approval and Reciprocal Recognition of Approval for Motor Vehicle Equipment and Parts, done at Geneva on 20 March 1958.

## Preamble

THE CONTRACTING PARTIES,

HAVING DECIDED to amend the Agreement Concerning the Adoption of Uniform Conditions of Approval and Reciprocal Recognition of Approval for Motor Vehicle Equipment and Parts, done at Geneva on 20 March 1958, and

DESIRING to define uniform technical prescriptions that it will suffice for certain wheeled vehicles, equipment and parts to fulfil in order to be used in their countries,

DESIRING to adopt these prescriptions whenever possible in their countries, and,

DESIRING to facilitate the use in their countries of the vehicles, equipment and parts, where approved according to these prescriptions by the competent authorities of another Contracting Party,

HAVE AGREED as follows:

### Article 1

1. The Contracting Parties shall establish through an Administrative Committee made up of all the Contracting Parties in conformity with the rules of procedure set out in Appendix 1 and on the basis of the following articles and paragraphs, Regulations for wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles. Where necessary the technical requirements will include alternatives and when possible they will be performance oriented and include test methods. Conditions for granting type approvals and their reciprocal recognition will be included for use by Contracting Parties who choose to implement Regulations through type approval.

For the purposes of this Agreement:

The term "wheeled vehicles, equipment and parts" shall include any wheeled vehicles, equipment and parts whose characteristics have a bearing on road safety, protection of the environment and energy saving;

The term "type approval pursuant to a Regulation" indicates an administrative procedure by which the competent authorities of one Contracting Party declare, after carrying out the required verifications, that a vehicle, equipment or parts submitted by the manufacturer conform to the requirements of the given Regulation. Afterwards the manufacturer certifies that each vehicle, equipment or parts put on the market were produced to be identical with the approved product.

For the application of the Regulations there could be various administrative procedures alternative to type approval. The only alternative procedure generally known and applied in certain Member States of the Economic Commission for Europe is the self-certification by which the manufacturer certifies, without any preliminary administrative control, that each product put on the market conforms to the given Regulation; the competent administrative authorities may

verify by random sampling on the market that the self-certified products comply with the requirements of the given Regulation.

2. The Administrative Committee shall be composed of all the Contracting Parties in accordance with the rules of procedure set out in Appendix 1. A Regulation, after having been established in accordance with the procedure indicated in Appendix 1, shall be communicated by the Administrative Committee to the Secretary-General of the United Nations, hereinafter called "Secretary-General". As soon as possible thereafter the Secretary-General shall give notification of this Regulation to the Contracting Parties.

The Regulation will be considered as adopted unless, within a period of six months from its notification by the Secretary-General, more than one-third of the Contracting Parties at the time of notification have informed the Secretary-General of their disagreement with the Regulation.

The Regulation shall cover the following:

- (a) Wheeled vehicles, equipment or parts concerned;
- (b) Technical requirements, which if necessary may include alternatives;
- (c) Test methods by which any performance requirements are to be demonstrated;
- (d) Conditions for granting type approval and their reciprocal recognition including any approval markings and conditions for ensuring conformity of production.
- (e) The date(s) on which the Regulation enters into force.

The Regulation may, if needed, include references to the laboratories accredited by the competent authorities where acceptance tests of the types of wheeled vehicles, equipment or parts submitted for approval must be carried out.

3. When a Regulation has been adopted the Secretary-General shall so notify as soon as possible all the Contracting Parties, specifying which Contracting Parties have objected and in respect of which the Regulation shall not enter into force.

4. The adopted Regulation shall enter into force on the date(s) specified therein as a Regulation annexed to this Agreement for all Contracting Parties which did not notify their disagreement.

5. When depositing its instrument of accession, any new Contracting Party may declare that it is not bound by certain Regulations then annexed to this Agreement or that it is not bound by any of them. If, at that time, the procedure laid down in paragraphs 2, 3, and 4 of this Article is in progress for a draft or adopted Regulation, the Secretary-General shall communicate such draft or adopted Regulation to the new Contracting Party and it shall enter into force as a Regulation for the new Contracting Party only under the conditions specified in paragraph 4 of this Article. The Secretary-General shall notify all the Contracting Parties of the date of such entry into force. The Secretary-General shall also communicate to them all declarations concerning the non-application

of certain Regulations that any Contracting Party may make in accordance with the terms of this paragraph.

6. Any Contracting Party applying a Regulation may at any time notify the Secretary-General, subject to one year's notice, that its administration intends to cease applying it. Such notification shall be communicated by the Secretary-General to the other Contracting Parties.

Approvals granted shall remain valid until their withdrawal;

If a Contracting Party ceases to issue approvals to a Regulation it shall:

Maintain proper supervision on conformity of production of products for which it previously granted type approval;

Take the necessary steps set out in Article 4 when advised of non-conformity by a Contracting Party that continues to apply the Regulation;

Continue to notify the competent authorities of other Contracting Parties of withdrawal of approvals as set out in Article 5;

Continue to grant extensions to existing approvals.

7. Any Contracting Party not applying a Regulation may at any time notify the Secretary-General that it intends henceforth to apply it, and the Regulation will then enter into force for this Party on the sixtieth day after this notification. The Secretary-General shall notify all the Contracting Parties of every entry into force of a Regulation for a new Contracting Party effected in accordance with the terms of this paragraph.

8. The Contracting Parties for which a Regulation is in force shall hereinafter be referred to as "the Contracting Parties applying a Regulation".

## Article 2

Each Contracting Party applying Regulations largely through type approval shall grant the type approvals and approval markings described in any Regulation for the types of wheeled vehicles, equipment or parts covered by the Regulation, provided that it has the technical competence and is satisfied with the arrangements for ensuring conformity of the product with the approved type as set out in Appendix 2. Each Contracting Party applying a Regulation through type approval shall refuse the type approvals and approval markings covered by the Regulation if the above-mentioned conditions are not complied with.

## Article 3

Wheeled vehicles, equipment or parts for which type approvals have been issued by a Contracting Party in accordance with Article 2 of this Agreement and manufactured either in the territory of a Contracting Party applying the Regulation concerned, or in such other country as is designated by the Contracting Party which has duly approved the types of wheeled vehicles,

equipment or parts concerned shall be held to be in conformity with the legislation of all the Contracting Parties applying the said Regulation through type approval.

#### Article 4

Should the competent authorities of a Contracting Party applying a Regulation through type approval find that certain wheeled vehicles, equipment or parts bearing approval markings issued under the said Regulation by one of the Contracting Parties, do not conform to the approved types, they shall advise the competent authorities of the Contracting Party which issued the approval. That Contracting Party shall take the necessary steps to bring the products of those manufacturers into conformity with the approved types and shall advise the other Contracting Parties applying the Regulation through type approval of the steps it has taken, which may include, if necessary, the withdrawal of approval. Where there might be a threat to road safety or to the environment, the Contracting Party which issued the approval and after receiving the information about the non-conformity to the approved type(s) shall inform thereof all other Contracting Parties about the situation. Contracting Parties may prohibit the sale and use of such wheeled vehicles, equipment or parts in their territory.

#### Article 5

The competent authorities of each Contracting Party applying Regulations through type approval shall send monthly to the competent authorities of the other Contracting Parties a list of the wheeled vehicle, equipment or parts, approvals of which it has refused to grant or has withdrawn during that month; in addition, on receiving a request from the competent authority of another Contracting Party applying a Regulation through type approval, it shall send forthwith to that competent authority a copy of all relevant information on which it based its decision to grant, refuse to grant, or to withdraw an approval of a wheeled vehicle, equipment or parts to that Regulation.

#### Article 6

1. Countries members of the Economic Commission for Europe, countries admitted to the Commission in a consultative capacity in accordance with paragraph 8 of the Commission's Terms of Reference, and regional economic integration organizations set up by countries members of the Economic Commission for Europe to which their Member States have transferred powers in the fields covered by this Agreement, including the power to make binding decisions on their Member States, may become Contracting Parties to this Agreement.

For the determination of the number of votes referred to in Article 1, paragraph 2 and in Article 12, paragraph 2, regional economic integration organizations vote with the number of votes of their Member States being members of the Economic Commission for Europe.

2. Countries Members of the United Nations as may participate in certain activities of the Economic Commission for Europe in accordance with Paragraph 11 of the Commission's Terms of Reference and regional economic integration organizations of such countries to which their Member States have transferred powers in the fields covered by this Agreement including power

to make binding decisions on their Member States may become Contracting Parties to this Agreement.

For the determination of the number of votes referred to in Article 1, paragraph 2 and in Article 12, paragraph 2, regional economic integration organizations vote with the number of votes of their Member States being Members of the United Nations.

3. Accession to the amended Agreement by new Contracting Parties which are not Parties to the 1958 Agreement shall be effected by the deposit of an instrument with the Secretary-General, after the entry into force of the amended Agreement.

#### Article 7

1. The amended Agreement shall be deemed to enter into force nine months after the date of its transmission by the Secretary-General to all the Contracting Parties to the 1958 Agreement.

2. The amended Agreement shall be deemed not to enter into force if any objection from the Contracting Parties to the 1958 Agreement is expressed within a period of six months following the date of its transmission to them by the Secretary-General.

3. For any new Contracting Party acceding to this amended Agreement, this amended Agreement shall enter into force on the sixtieth day after the deposit of the instrument of accession.

#### Article 8

1. Any Contracting Party may denounce this Agreement by notifying the Secretary-General.

2. Denunciation shall take effect twelve months after the date of receipt by the Secretary-General of such notification.

#### Article 9

1. Any new Contracting Party as defined in Article 6 of this Agreement may, at the time of accession or at any time thereafter, declare by notification addressed to the Secretary-General that this Agreement shall extend to all or any of the territories for whose international relations it is responsible. The Agreement shall extend to the territory or territories named in the notification as from the sixtieth day after its receipt by the Secretary-General.

2. Any new Contracting Party as defined in Article 6 of this Agreement which has made a declaration in accordance with paragraph 1 of this Article extending this Agreement to any territory for whose international relations it is responsible may denounce the Agreement separately in respect of that territory, in accordance with the provisions of Article 8.

## Article 10

1. Any dispute between two or more Contracting Parties concerning the interpretation or application of this Agreement shall, so far as possible, be settled by negotiation between them.
2. Any dispute which is not settled by negotiation shall be submitted to arbitration if any one of the Contracting Parties in dispute so requests and shall be referred accordingly to one or more arbitrators selected by agreement between the Parties in dispute. If within three months from the date of the request for arbitration the Parties in dispute are unable to agree on the selection of an arbitrator or arbitrators, any of those Parties may request the Secretary-General to nominate a single arbitrator to whom the dispute shall be referred for decision.
3. The decision of the arbitrator or arbitrators appointed in accordance with paragraph 2 of this Article shall be binding on the Contracting Parties in dispute.

## Article 11

1. Each new Contracting Party may, at the time of acceding to this Agreement, declare that it does not consider itself bound by Article 10 of the Agreement. Other Contracting Parties shall not be bound by Article 10 in respect of any new Contracting Party which has entered such a reservation.
2. Any Contracting Party having entered a reservation as provided for in paragraph 1 of this Article may at any time withdraw such reservation by notifying the Secretary-General.
3. No other reservation to this Agreement or to the Regulations annexed thereto shall be permitted; but any Contracting Party may, in accordance with the terms of Article 1, declare that it does not propose to apply certain of the Regulations or that it does not propose to apply any of them.

## Article 12

The Regulations annexed to this Agreement may be amended in accordance with the following procedure:

1. Amendments to Regulations shall be established by the Administrative Committee as described in Article 1, paragraph 2 and in accordance with the procedure indicated in Appendix 1. Where necessary an amendment may include the existing requirements as an alternative. Contracting Parties shall specify which alternatives within the Regulations they will apply. Contracting Parties applying alternative(s) within a Regulation shall not be obliged to accept approvals to preceding alternative(s) within the same Regulation. Contracting Parties applying only the most recent amendments shall not be obliged to accept approvals to preceding amendments or to unamended Regulations. Contracting Parties applying an earlier series of amendments or the unamended Regulation shall accept approvals granted to a later amendment series. An amendment to the Regulation, after having been established, shall be communicated by the Administrative Committee to the Secretary-General. As soon as possible thereafter the

Secretary-General shall give notification of this amendment to the Contracting Parties applying the Regulation.

2. An amendment to a Regulation will be considered to be adopted unless, within a period of six months from its notification by the Secretary-General, more than one-third of the Contracting Parties applying the Regulation at the time of notification have informed the Secretary-General of their disagreement with the amendment. If, after this period, the Secretary-General has not received declarations of disagreement of more than one-third of the Contracting Parties applying the Regulation, the Secretary-General shall as soon as possible declare the amendment as adopted and binding upon those Contracting Parties applying the Regulation who did not declare themselves opposed to it. When a Regulation is amended and at least one-fifth of the Contracting Parties applying the unamended Regulation subsequently declare that they wish to continue to apply the unamended Regulation, the unamended Regulation will be regarded as an alternative to the amended Regulation and will be incorporated formally as such into the Regulation with effect from the date of adoption of the amendment or its entry into force. In this case the obligations of the Contracting Parties applying the Regulation shall be the same as set out in paragraph 1.

3. Should a new Contracting Party accede to this Agreement between the time of the notification of the amendment to a Regulation by the Secretary-General and its entry into force, the Regulation in question shall not enter into force for that Contracting Party until two months after it has formally accepted the amendment or two months after the lapse of a period of six months since the communication to that Party by the Secretary-General of the proposed amendment.

### Article 13

The text of the Agreement itself and of its Appendices may be amended in accordance with the following procedure:

1. Any Contracting Party may propose one or more amendments to this Agreement and its Appendices. The text of any proposed amendment to the Agreement and its Appendices shall be transmitted to the Secretary-General, who shall transmit it to all Contracting Parties and inform all other countries referred to in paragraph 1 of Article 6 thereof.

2. Any proposed amendment circulated in accordance with paragraph 1 of this Article shall be deemed to be accepted if no Contracting Party expresses an objection within a period of six months following the date of circulation of the proposed amendment by the Secretary-General.

3. The Secretary-General shall, as soon as possible, notify all Contracting Parties whether an objection to the proposed amendment has been expressed. If an objection to the proposed amendment has been expressed, the amendment shall be deemed not to have been accepted, and shall be of no effect whatever. If no such objection has been expressed, the amendment shall enter into force for all Contracting Parties three months after the expiry of the period of six months referred to in paragraph 2 of this Article.

#### Article 14

In addition to the notifications provided for in Articles 1, 12 and 13 of this Agreement, the Secretary-General shall notify the Contracting Parties of:

- (a) Accessions in accordance with Article 6;
- (b) The dates of entry into force of this Agreement in accordance with Article 7;
- (c) Denunciations in accordance with Article 8;
- (d) Notifications received in accordance with Article 9;
- (e) Declarations and notifications received in accordance with paragraphs 1 and 2 of Article 11;
- (f) The entry into force of any amendment in accordance with paragraphs 1 and 2 of Article 12;
- (g) The entry into force of any amendment in accordance with paragraph 3 of Article 13.

#### Article 15

1. If at the date the above provisions come into effect the procedures envisaged in Article 1, paragraphs 3 and 4 of the unamended Agreement are under way for adopting a new Regulation, the said new Regulation shall enter into force under the provisions of paragraph 5 of the said Article.

2. If at the date the above provisions come into effect, the procedures envisaged in Article 12, paragraph 1 of the unamended Agreement are under way for the adoption of an amendment to a Regulation, the said amendment shall enter into force under the provisions of the said Article.

3. If all Contracting Parties to the Agreement agree, any Regulation adopted under the terms of the unamended Agreement may be treated as though it were a Regulation adopted under the terms of the above provisions.

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## Appendix 1

### COMPOSITION AND RULES OF PROCEDURE OF THE ADMINISTRATIVE COMMITTEE

#### Article 1

The members of the Administrative Committee shall be composed of all the Contracting Parties to the amended Agreement.

#### Article 2

The Executive Secretary of the United Nations Economic Commission for Europe shall provide the Committee with secretariat services.

#### Article 3

The Committee shall, at its first session each year, elect a chairman and vice-chairman.

#### Article 4

The Secretary-General of the United Nations shall convene the Committee under the auspices of the Economic Commission for Europe whenever a new Regulation or an amendment to a Regulation is required to be established.

#### Article 5

Proposed new Regulations shall be put to the vote. Each country, Contracting Party to the Agreement shall have one vote. A quorum consisting of not less than half of the Contracting Parties is required for the purposes of taking decisions. For the determination of the quorum regional economic integration organizations, being Contracting Parties to the Agreement, vote with the number of votes of their Member States. The representative of a regional economic integration organization may deliver the votes of its constituent sovereign countries. New Draft Regulations shall be established by a two-thirds majority of those present and voting.

#### Article 6

Proposed amendments to Regulations shall be put to the vote. Each country, Contracting Party to the Agreement applying the Regulation shall have one vote. A quorum of not less than half of the Contracting Parties applying the Regulation is required for the purposes of taking decisions. For the determination of the quorum, regional economic integration organizations, being Contracting Parties to the Agreement, vote with the number of votes of their Member States. The representative of a regional economic integration organization may deliver the votes of those of its constituent sovereign countries which apply the Regulation. Draft Amendments to Regulations shall be established by a two-thirds majority of those present and voting.

## Appendix 2

### CONFORMITY OF PRODUCTION PROCEDURES

#### 1. INITIAL ASSESSMENT

- 1.1. The approval authority of a Contracting Party must verify - before granting type approval - the existence of satisfactory arrangements and procedures for ensuring effective control so that vehicles, equipment or parts when in production conform to the approved type.
- 1.2. The requirement in paragraph 1.1. must be verified to the satisfaction of the authority granting type approval but may also be verified, on behalf and at the request of the authority granting type approval, by the approval authority of another Contracting Party. In that case, the latter approval authority prepares a statement of compliance outlining the areas and production facilities it has covered as relevant to the product(s) to be type approved.
- 1.3. The approval authority must also accept the manufacturer's registration to harmonized standard ISO 9002 (the scope of which covers the product(s) to be approved) or an equivalent accreditation standard as satisfying the requirements of paragraph 1.1. The manufacturer must provide details of the registration and undertake to inform the approval authority of any revisions to its validity or scope.
- 1.4. On receiving an application from the authority of another Contracting Party the approval authority shall send forthwith the statement of compliance mentioned in the last sentence of paragraph 1.2. or advise that it is not in a position to provide such a statement.

#### 2. CONFORMITY OF PRODUCTION

- 2.1. Every vehicle, equipment or part approved under Regulation annexed to this Agreement must be so manufactured as to conform to the type approved by meeting the requirements of this Appendix and of the said Regulation.
- 2.2. The approval authority of a Contracting Party granting a type approval pursuant to a Regulation annexed to this Agreement must verify the existence of adequate arrangements and documented control plans, to be agreed with the manufacturer for each approval, to carry out at specified intervals those tests or associated checks necessary to verify continued conformity with the approved type, including, specifically, where applicable, tests specified in the said Regulation.
- 2.3. The holder of the approval must in particular:
  - 2.3.1. Ensure the existence of procedures for effective control of the conformity of products (vehicles, equipment or parts) to the type approval;

- 2.3.2. Have access to the testing equipment necessary for checking the conformity to each approved type;
- 2.3.3. Ensure that test results' data are recorded and that annexed documents remain available for a period to be determined in agreement with the approval authority. This period must not exceed 10 years;
- 2.3.4. Analyze results of each type of test, in order to verify and ensure the stability of the product characteristics, making allowance for variation of an industrial production;
- 2.3.5. Ensure that for each type of product, at least the checks prescribed in this Appendix and the tests prescribed in the applicable Regulations are carried out;
- 2.3.6. Ensure that any set of samples or test pieces giving evidence of non-conformity in the type of test in question gives rise to a further sampling and test. All the necessary steps must be taken to restore conformity of the corresponding production.
- 2.4. The authority which has granted type approval may at any time verify the conformity control methods applied in each production facility. The normal frequency of these verifications must be consistent with the arrangements (if any) accepted under paragraph 1.2. or 1.3. of this Appendix and be such as to ensure that the relevant controls are reviewed over a period consistent with the climate of trust established by the approval authority.
  - 2.4.1. At every inspection, the test records and production records must be available to the visiting inspector.
  - 2.4.2. Where the nature of the test is appropriate, the inspector may select samples at random to be tested in the manufacturer's laboratory (or by the Technical Service where the Regulation annexed to this Agreement so provides). The minimum number of samples may be determined according to the results of the manufacturer's own verification.
  - 2.4.3. Where the level of control appears unsatisfactory, or when it seems necessary to verify the validity of the tests carried out in application of paragraph 2.4.2., the inspector must select samples to be sent to the Technical Service which conducts the type approval tests.
  - 2.4.4. The approval authority may carry out any check or test prescribed in this Appendix or in the applicable Regulation annexed to this Agreement.
  - 2.4.5. In cases where unsatisfactory results are found during an inspection, the approval authority must ensure that all necessary steps are taken to restore conformity of production as rapidly as possible.

Annex III

**AGREEMENT CONCERNING THE ESTABLISHING  
OF GLOBAL TECHNICAL REGULATIONS FOR WHEELED VEHICLES,  
EQUIPMENT AND PARTS WHICH CAN BE FITTED  
AND/OR BE USED ON WHEELED VEHICLES,  
DONE AT GENEVA ON 25 JUNE 1998**

(Reproduction of documents ECE/TRANS/132 and Corr.1)

## **PREAMBLE**

THE CONTRACTING PARTIES,

HAVING DECIDED to adopt an Agreement to establish a process for promoting the development of global technical regulations ensuring high levels of safety, environmental protection, energy efficiency and anti-theft performance of Wheeled Vehicles, Equipment and Parts which can be fitted and/or be used on Wheeled Vehicles;

HAVING DECIDED that such process shall also promote the harmonization of existing technical regulations, recognizing the right of subnational, national and regional authorities to adopt and maintain technical regulations in the areas of health, safety, environmental protection, energy efficiency and anti-theft performance that are more stringent than those established at the global level;

HAVING AUTHORIZATION to enter into such an Agreement under paragraph 1(a) of the Terms of Reference of the UN/ECE and Chapter XIII of the Rules of Procedure of the UN/ECE, Rule 50;

RECOGNIZING that this Agreement does not prejudice the rights and obligations of a Contracting Party under existing international agreements on health, safety and environmental protection;

RECOGNIZING that this Agreement does not prejudice the rights and obligations of a Contracting Party under the agreements under the World Trade Organization (WTO), including the Agreement on Technical Barriers to Trade (TBT), and intending to establish global technical regulations under this agreement, as a basis for their technical regulations in a manner consistent with these agreements;

INTENDING that Contracting Parties to this Agreement use the global technical regulations established under this Agreement as a basis for their technical regulations;

RECOGNIZING the importance to public health, safety and welfare of continuously improving and seeking high levels of safety, environmental protection, energy efficiency and anti-theft performance of wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles, and the potential value to international trade, consumer choice and product affordability of increasing convergences in existing and future technical regulations and their related standards;

RECOGNIZING that governments have the right to seek and implement improvements in the level of health, safety and environmental protection, and to determine whether the global technical regulations established under this Agreement are suitable for their needs;

RECOGNIZING the important harmonization work already carried out under the 1958 Agreement;

RECOGNIZING the interest and expertise in different geographic regions regarding safety, environmental, energy and anti-theft problems and methods of solving those problems, and the value of that interest and expertise in developing global technical regulations to aid in achieving those improvements and in minimizing divergences;

DESIRING to promote the adoption of established global technical regulations in developing countries, taking into account the special issues and circumstances for those countries, and in particular the least developed of them;

DESIRING that the technical regulations applied by the Contracting Parties be given due consideration through transparent procedures in developing global technical regulations, and that such consideration include comparative analyses of benefits and cost effectiveness;

RECOGNIZING that establishing global technical regulations providing high levels of protection will encourage individual countries to conclude that those Regulations will provide the protection and performance needed within their jurisdiction;

RECOGNIZING the impact of the quality of vehicle fuels on the performance of vehicle environmental controls, human health, and fuel efficiency; and

RECOGNIZING that the use of transparent procedures is of particular importance in developing global technical regulations under this Agreement and that this development process must be compatible with the regulatory development processes of the Contracting Parties to this Agreement;

HAVE AGREED as follows:

## ARTICLE 1

### **PURPOSE**

- 1.1. The purpose of this Agreement is:
  - 1.1.1. To establish a global process by which Contracting Parties from all regions of the world can jointly develop global technical regulations regarding the safety, environmental protection, energy efficiency, and anti-theft performance of wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles;
  - 1.1.2. To ensure that, in developing global technical regulations, due and objective consideration is given to the existing technical regulations of Contracting Parties, and to the UN/ECE Regulations;
  - 1.1.3. To ensure that objective consideration is given to the analysis of best available technology, relative benefits and cost effectiveness as appropriate in developing global technical regulations;

- 1.1.4. To ensure that the procedures used in developing global technical regulations are transparent;
- 1.1.5. To achieve high levels of safety, environmental protection, energy efficiency, and anti-theft performance within the global community, and to ensure that actions under this Agreement do not promote, or result in, a lowering of these levels within the jurisdiction of Contracting Parties, including the subnational level;
- 1.1.6. To reduce technical barriers to international trade through harmonizing existing technical regulations of Contracting Parties, and UN/ECE Regulations, and developing new global technical regulations governing safety, environmental protection, energy efficiency and anti-theft performance of wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles, consistent with the achievement of high levels of safety and environment protection and the other above-stated purposes; and
- 1.1.7. To ensure that, where alternative levels of stringency are needed to facilitate the regulatory activities of certain countries, in particular developing countries, such needs are taken into consideration in developing and establishing global technical regulations.
- 1.2. This Agreement is to operate in parallel with the 1958 Agreement, without affecting the institutional autonomy of either Agreement.

## ARTICLE 2

### **CONTRACTING PARTIES AND CONSULTATIVE STATUS**

- 2.1. Countries that are members of the Economic Commission for Europe (UN/ECE), regional economic integration organizations that are set up by ECE member countries and countries that are admitted to the ECE in a consultative capacity in accordance with paragraph 8 of the ECE's Terms of Reference, may become Contracting Parties to this Agreement.
- 2.2. Countries that are members of the United Nations and that participate in certain activities of the ECE in accordance with paragraph 11 of the ECE's Terms of Reference, and regional economic integration organizations set up by such countries, may become Contracting Parties to this Agreement.
- 2.3. Any specialized agency and any organization, including intergovernmental organizations and non-governmental organizations, that have been granted consultative status by the Economic and Social Council of the United Nations, may participate in that capacity in the deliberations of any Working Party during consideration of any matter of particular concern to that agency or organization.

## ARTICLE 3

### **EXECUTIVE COMMITTEE**

- 3.1. The representatives of Contracting Parties shall constitute the Executive Committee of this Agreement and shall meet at least annually in that capacity.
- 3.2. The Rules of Procedure of the Executive Committee are set forth in Annex B to this Agreement.
- 3.3. The Executive Committee shall:
  - 3.3.1. be responsible for the implementation of this Agreement, including the setting of priorities for activity under this Agreement;
  - 3.3.2. consider all recommendations and reports by Working Parties regarding the establishment of global technical regulations under this Agreement; and
  - 3.3.3. fulfil such other functions as may be appropriate under this Agreement.
- 3.4. The Executive Committee shall have the final authority to decide whether to list regulations in the Compendium of Candidate global technical regulations and to establish global technical regulations under this Agreement.
- 3.5. The Executive Committee shall, in discharging its functions, use information from all relevant sources when the Committee deems it appropriate to do so.

## ARTICLE 4

### **CRITERIA FOR TECHNICAL REGULATIONS**

- 4.1. To be listed under Article 5 or established under Article 6, a technical regulation shall meet the following criteria:
  - 4.1.1. provide a clear description of the wheeled vehicles, equipment and/or parts which can be fitted and/or be used on wheeled vehicles and which are subject to the regulation.
  - 4.1.2. contain requirements that:
    - 4.1.2.1. provide for high levels of safety, environmental protection, energy efficiency or anti-theft performance; and
    - 4.1.2.2. wherever appropriate, are expressed in terms of performance instead of design characteristics.

- 4.1.3. include:
  - 4.1.3.1. the test method by which compliance with the regulation is to be demonstrated;
  - 4.1.3.2. for regulations to be listed under Article 5, where appropriate, a clear description of approval or certification markings and/or labels requisite for type approval and conformity of production or for manufacturer self-certification requirements; and
  - 4.1.3.3. if applicable, a recommended minimum period of lead time, based upon considerations of reasonableness and practicability, that a Contracting Party should provide before requiring compliance.
- 4.2. A global technical regulation may specify alternative non-global levels of stringency or performance, and appropriate test procedures, where needed to facilitate the regulatory activities of certain countries, in particular developing countries.

## ARTICLE 5

### COMPENDIUM OF CANDIDATE GLOBAL TECHNICAL REGULATIONS

- 5.1. A compendium of technical regulations of Contracting Parties other than UN/ECE Regulations that are candidates for harmonization or adoption as global technical regulations (to be known as the Compendium of Candidates) shall be created and maintained.
- 5.2. Listing technical regulations in the Compendium of Candidates

Any Contracting Party may submit a request to the Executive Committee for the listing in the Compendium of Candidates of any technical regulation that such Contracting Party has applied, is applying or has adopted for future application.

  - 5.2.1. The request specified in paragraph 5.2. shall contain:
    - 5.2.1.1. a copy of such regulation;
    - 5.2.1.2. any available technical documentation supporting such regulation, including documentation concerning best available technology, relative benefits, and cost effectiveness; and
    - 5.2.1.3. the identification of any known existing or imminent relevant international voluntary standards.
  - 5.2.2. The Executive Committee shall consider all requests that satisfy the requirements of Article 4 and paragraph 5.2.1. of this Article. The technical regulation shall be listed in the Compendium of Candidates if supported by an affirmative vote in accordance with paragraph 7.1. of Article 7 of Annex B. The documentation submitted with the request for that regulation shall be appended to the listed technical regulation.

5.2.3. The requested regulation shall be considered to be listed by the Secretary-General on the date on which it is supported by an affirmative vote under paragraph 5.2.2. of this Article.

5.3. Removing listed technical regulations from the Compendium of Candidates

A listed technical regulation shall be removed from the Compendium of Candidates either:

5.3.1. upon the establishment in the Global Registry of a global technical regulation embodying product requirements addressing the same elements of performance or design characteristics as the listed technical regulation;

5.3.2. at the end of the 5-year period following the regulation's listing under this Article, and at the end of each subsequent 5-year period, unless the Executive Committee reaffirms, by an affirmative vote in accordance with paragraph 7.1. of Article 7 of Annex B, the listing of the technical regulation in the Compendium of Candidates; or

5.3.3. in response to a written request from the Contracting Party at whose request the technical regulation was originally listed. Such request shall include the bases for the removal of the regulation.

5.4. Availability of documents

All documents considered by the Executive Committee under this Article shall be publicly available.

## ARTICLE 6

### **REGISTRY OF GLOBAL TECHNICAL REGULATIONS**

6.1. A registry shall be created and maintained for the global technical regulations developed and established under this Article. The registry shall be known as the Global Registry.

6.2. Establishing global technical regulations in the Global Registry through harmonization of existing regulations

A Contracting Party may submit a proposal to develop a harmonized global technical regulation concerning elements of performance or design characteristics addressed either by technical regulations listed in the Compendium of Candidates, or by any UN/ECE Regulations, or both.

6.2.1. The proposal specified in paragraph 6.2. shall contain:

6.2.1.1. an explanation of the objective of the proposed global technical regulation.

- 6.2.1.2. a narrative description or, if available, the draft text of the proposed global technical regulation;
- 6.2.1.3. available documentation that may facilitate the analysis of the issues to be addressed in the report required by paragraph 6.2.4.2.1. of this Article;
- 6.2.1.4. a list of all technical regulations in the Compendium of Candidates, and any UN/ECE Regulations, that address the same elements of performance or design characteristics to be addressed by the proposed global technical regulation; and
- 6.2.1.5. the identification of any known existing relevant international voluntary standards.
- 6.2.2. Each proposal specified in paragraph 6.2.1. of this Article shall be submitted to the Executive Committee.
- 6.2.3. The Executive Committee shall not refer to any Working Party any proposal that it determines does not satisfy the requirements of Article 4 and paragraph 6.2.1. of this Article. It may refer all other proposals to an appropriate Working Party.
- 6.2.4. In response to a proposal referred to it for developing a global technical regulation through harmonization, the Working Party shall use transparent procedures to:
  - 6.2.4.1. develop recommendations regarding a global technical regulation by:
    - 6.2.4.1.1. giving consideration to the objective of the proposed global technical regulation and the need for establishing alternative levels of stringency or performance;
    - 6.2.4.1.2. reviewing all technical regulations that are listed in the Compendium of Candidates, and any UN/ECE Regulations, that address the same elements of performance;
    - 6.2.4.1.3. reviewing any documentation that is appended to the regulations specified in paragraph 6.2.4.1.2. of this Article;
    - 6.2.4.1.4. reviewing any available assessments of functional equivalence relevant to the consideration of the proposed global technical regulation, including assessments of related standards;
    - 6.2.4.1.5. verifying whether the global technical regulation under development satisfies the stated objective of the regulation and the criteria in Article 4; and
    - 6.2.4.1.6. giving due consideration to the possibility of the technical regulation being established under the 1958 Agreement.
  - 6.2.4.2. submit to the Executive Committee:
    - 6.2.4.2.1. a written report that presents its recommendation regarding the global technical regulation, includes all technical data and information that were considered in the

development of its recommendation, describes its consideration of the information specified in paragraph 6.2.4.1. of this Article, and sets forth the rationale for its recommendations, including an explanation for rejecting any alternative regulatory requirements and approaches considered; and

6.2.4.2.2. the text of any recommended global technical regulation.

6.2.5. The Executive Committee shall, using transparent procedures:

6.2.5.1. determine whether the recommendations regarding the global technical regulation, and the report are based upon a sufficient and thorough performance of the activities specified in paragraph 6.2.4.1. of this Article. If the Executive Committee determines that the recommendations, report and/or the text of the recommended global technical regulation, if any, are inadequate, it shall return the regulation and report to the Working Party for revision or additional work.

6.2.5.2. consider the establishment of a recommended global technical regulation in accordance with the procedures set forth in paragraph 7.2. of Article 7 of Annex B. A consensus vote by the Executive Committee in favour of the regulation shall establish the Regulation in the Global Registry.

6.2.6. The global technical regulation shall be considered to be established in the Global Registry on the date of the consensus vote by the Executive Committee in favour of the regulation.

6.2.7. The Secretariat shall, upon the establishment of a global technical regulation by the Executive Committee, append copies of all relevant documentation, including the proposal submitted pursuant to paragraph 6.2.1. of this Article and the recommendations and report required by paragraph 6.2.4.2.1. of this Article, to that regulation.

6.3. Establishing new global technical regulations in the Global Registry

A Contracting Party may submit a proposal to develop a new global technical regulation concerning elements of performance or design characteristics not addressed by technical regulations in the Compendium of Candidates or UN/ECE Regulations.

6.3.1. The proposal specified in paragraph 6.3. shall contain:

6.3.1.1. an explanation of the objective of the proposed new global technical regulation, based on objective data to the extent possible;

6.3.1.2. a narrative description or, if available, the draft text of the proposed new global technical regulation;

6.3.1.3. any available documentation that may facilitate the analysis of the issues to be addressed in the report required by paragraph 6.3.4.2.1. of this Article; and

- 6.3.1.4. the identification of any known existing relevant international voluntary standards.
- 6.3.2. Each proposal specified in paragraph 6.3.1. of this Article shall be submitted to the Executive Committee.
- 6.3.3. The Executive Committee shall not refer to any Working Party any proposal that it determines does not satisfy the requirements of Article 4 and paragraph 6.3.1. of this Article. It may refer all other proposals to an appropriate Working Party.
- 6.3.4. In response to a proposal referred to it for developing a new global technical regulation, the Working Party shall use transparent procedures to:
  - 6.3.4.1. develop recommendations regarding a new global technical regulation by:
    - 6.3.4.1.1. giving consideration to the objective of the proposed new global technical regulation and the need for establishing alternative levels of stringency or performance;
    - 6.3.4.1.2. considering technical feasibility;
    - 6.3.4.1.3. considering economic feasibility;
    - 6.3.4.1.4. examining benefits, including those of any alternative regulatory requirements and approaches considered;
    - 6.3.4.1.5. comparing potential cost effectiveness of the recommended regulation to that of the alternative regulatory requirements and approaches considered;
    - 6.3.4.1.6. verifying whether the new global technical regulation under development satisfies the stated objective of the Regulation and the criteria in Article 4; and
    - 6.3.4.1.7. giving due consideration to the possibility of the technical regulation being established under the 1958 Agreement.
  - 6.3.4.2. submit to the Executive Committee:
    - 6.3.4.2.1. a written report that presents its recommendation regarding the new global technical regulation, includes all technical data and information that were considered in the development of its recommendation, describes its consideration of the information specified in paragraph 6.3.4.1. of this Article, and sets forth the rationale for its recommendations, including an explanation for rejecting any alternative regulatory requirements and approaches considered; and
    - 6.3.4.2.2. the text of any recommended new global technical regulation.

- 6.3.5 The Executive Committee shall, using transparent procedures:
- 6.3.5.1. determine whether the recommendations regarding the new global technical regulation and the report are based upon a sufficient and thorough performance of the activities specified in paragraph 6.3.4.1. of this Article. If the Executive Committee determines that the recommendations, report and/or the text of the recommended new global technical regulation, if any, are inadequate, it shall return the regulation and report to the Working Party for revision or additional work.
- 6.3.5.2. consider the establishment of a recommended new global technical regulation in accordance with the procedures set forth in paragraph 7.2. of Article 7 of Annex B. A consensus vote by the Executive Committee in favour of the regulation shall establish the Regulation in the Global Registry.
- 6.3.6. The global technical regulation shall be considered to be established in the Global Registry on the date of the consensus vote by the Executive Committee in favour of the regulation.
- 6.3.7. The Secretariat shall, upon the establishment of a new global technical regulation by the Executive Committee, append copies of all relevant documentation, including the proposal submitted pursuant to paragraph 6.3.1. of this Article and the recommendations and report required by paragraph 6.3.4.2.1. of this Article, to that Regulation.
- 6.4. Amending established global technical regulations
- The process for amending any global technical regulation established in the Global Registry under this Article shall be the procedures specified in paragraph 6.3. of this Article for establishing a new global technical regulation in the Global Registry.
- 6.5. Availability of documents
- All documents considered or generated by the Working Party in recommending global technical regulations under this Article shall be publicly available.

## ARTICLE 7

### **ADOPTION, AND NOTIFICATION OF APPLICATION, OF ESTABLISHED GLOBAL TECHNICAL REGULATIONS**

- 7.1. A Contracting Party that votes in favour of establishing a global technical regulation under Article 6 of this Agreement shall be obligated to submit the technical Regulation to the process used by that Contracting Party to adopt such a technical Regulation into its own laws or regulations and shall seek to make a final decision expeditiously.

- 7.2. A Contracting Party that adopts an established global technical regulation into its own laws or regulations shall notify the Secretary-General in writing of the date on which it will begin applying that Regulation. The notification shall be provided within 60 days after its decision to adopt the Regulation. If the established global technical regulation contains more than one level of stringency or performance, the notification shall specify which of those levels of stringency or performance is selected by the Contracting Party.
- 7.3. A Contracting Party that is specified in paragraph 7.1. of this Article and that decides not to adopt the established global technical regulation into its own laws or regulations, shall notify the Secretary-General in writing of its decision and the basis for its decision. The notification shall be provided within sixty (60) days after its decision.
- 7.4. A Contracting Party that is specified in paragraph 7.1. of this Article and that has not, by the end of the one-year period after the date of the establishment of the Regulation in the Global Registry, either adopted that technical regulation or decided not to adopt the Regulation into its own laws or regulations, shall provide a report on the status of the Regulation in its domestic process. A status report shall be submitted for each subsequent one-year period if neither of those actions has been taken by the end of that period. Each report required by this paragraph shall:
- 7.4.1. include a description of the steps taken during the past year to submit the Regulation and make a final decision and an indication of the anticipated date of such a decision; and
- 7.4.2. be submitted to the Secretary-General not later than 60 days after the end of the one-year period for which the report is submitted.
- 7.5. A Contracting Party that accepts products that comply with an established global technical regulation without adopting that Regulation into its own laws or regulations shall notify the Secretary-General in writing of the date on which it began to accept such products. The Contracting Party shall provide the notification within sixty (60) days after the beginning of such acceptance. If the established global technical regulation contains more than one level of stringency or performance, the notification shall specify which of those levels of stringency or performance is selected by the Contracting Party.
- 7.6. A Contracting Party that has adopted into its own laws or regulations an established global technical regulation may decide to rescind or amend the adopted Regulation. Prior to making that decision, the Contracting Party shall notify the Secretary-General in writing of its intent and the reasons for considering that action. This notice provision shall also apply to a Contracting Party that has accepted products under paragraph 7.5. and that intends to cease accepting such products. The Contracting Party shall notify the Secretary-General of its decision to adopt any amended or new regulation within 60 days after that decision. Upon request, the Contracting Party

shall promptly provide copies of such amended or new regulation to other Contracting Parties.

## ARTICLE 8

### ISSUE RESOLUTION

- 8.1. Questions concerning the provisions of an established global technical regulation shall be referred to the Executive Committee for resolution.
- 8.2. Issues between two or more Contracting Parties concerning the interpretation or application of this Agreement shall, so far as possible, be resolved through consultation or negotiation between or among them. Where this process fails to resolve the issues, the Contracting Parties concerned may agree to request the Executive Committee to resolve the issue as provided in paragraph 7.3. of Article 7 of Annex B.

## ARTICLE 9

### BECOMING A CONTRACTING PARTY

- 9.1. Countries and regional economic integration organizations specified in Article 2 may become Contracting Parties to this Agreement by either:
  - 9.1.1. signature without reservation as to ratification, acceptance or approval;
  - 9.1.2. signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval;
  - 9.1.3. acceptance; or
  - 9.1.4. accession.
- 9.2. The instrument of ratification, acceptance, approval or accession shall be deposited with the Secretary-General.
- 9.3. Upon becoming a Contracting Party:
  - 9.3.1. after this Agreement has entered into force, each country or regional integration organization shall give notification in accordance with Article 7 as to which, if any, global technical regulation(s) established pursuant to Article 6 it will adopt, and as to any decision to accept products that comply with any of those global technical regulations, without adopting those Regulations into its own laws or regulations. If the established global technical regulation contains more than one level of stringency or performance, the notification shall specify which of those levels of stringency or performance is adopted or accepted by the Contracting Party.

- 9.3.2. each regional economic integration organization shall declare in matters within its competence that its Member States have transferred powers in fields covered by this Agreement, including the power to make binding decisions on their Member States.
- 9.4. Regional economic integration organizations that are Contracting Parties shall cease being Contracting Parties when they lose the powers declared in accordance with paragraph 9.3.2. of this Article and shall inform the Secretary-General thereof.

#### ARTICLE 10

##### **SIGNATURE**

- 10.1. This Agreement shall be open for signature beginning 25 June 1998.
- 10.2. This Agreement shall remain open for signature until its entry into force.

#### ARTICLE 11

##### **ENTRY INTO FORCE**

- 11.1. This Agreement and its Annexes, which constitute integral parts of the Agreement, shall enter into force on the thirtieth (30) day following the date on which a minimum of five (5) countries and/or regional economic integration organizations have become Contracting Parties pursuant to Article 9. This minimum of five (5) must include the European Community, Japan, and the United States of America.
- 11.2. If, however, paragraph 11.1 of this Article is not satisfied fifteen (15) months after the date specified in paragraph 10.1., then this Agreement and its Annexes, which constitute integral parts of the Agreement, shall enter into force on the thirtieth (30) day following the date on which a minimum of eight (8) countries and/or regional economic integration organizations have become Contracting Parties pursuant to Article 9. Such date of entry into force shall not be earlier than sixteen (16) months after the date specified in paragraph 10.1. At least one (1) of these eight (8) must be either the European Community, Japan or the United States of America.
- 11.3. For any country or regional economic integration organization that becomes a Contracting Party to the Agreement after its entry into force, this Agreement shall enter into force sixty (60) days after the date that such country or regional economic integration organization deposits its instrument of ratification, acceptance, approval or accession.

#### ARTICLE 12

##### **WITHDRAWAL FROM AGREEMENT**

- 12.1. A Contracting Party may withdraw from this Agreement by notifying the Secretary-General in writing.

- 12.2. Withdrawal from this Agreement by any Contracting Party shall take effect one year after the date on which the Secretary-General receives notification pursuant to paragraph 12.1. of this Article.

## ARTICLE 13

### **AMENDMENT OF AGREEMENT**

- 13.1. A Contracting Party may propose amendments to this Agreement and the Annexes to this Agreement. Proposed amendments shall be submitted to the Secretary-General, who shall transmit them to all Contracting Parties.
- 13.2. A proposed amendment transmitted in accordance with paragraph 13.1. of this Article shall be considered by the Executive Committee at its next scheduled meeting.
- 13.3. If there is a consensus vote in favour of the amendment by the Contracting Parties present and voting, it shall be communicated by the Executive Committee to the Secretary-General who shall then circulate the amendment to all Contracting Parties.
- 13.4. An amendment circulated under paragraph 13.3. of this Article shall be deemed to be accepted by all Contracting Parties if no Contracting Party expresses an objection within a period of six (6) months after the date of such circulation. If no such objection has been expressed, the amendment shall enter into force for all Contracting Parties three (3) months after the expiry of the period of the six (6) months referred in this paragraph.
- 13.5. The Secretary-General shall, as soon as possible, notify all Contracting Parties whether an objection to the proposed amendment has been expressed. If such objection has been expressed, the amendment shall be deemed not to have been accepted, and shall be of no effect whatever.

## ARTICLE 14

### **DEPOSITARY**

The Depositary of this Agreement shall be the Secretary-General of the United Nations. In addition to other depositary functions, the Secretary-General shall, as soon as possible, notify the Contracting Parties of:

- 14.1. the listing or removing of technical regulations under Article 5.
- 14.2. the establishing or amending of global technical regulations under Article 6.
- 14.3. notifications received in accordance with Article 7.
- 14.4. signatures, acceptances, and accessions in accordance with Articles 9 and 10.

- 14.5. notifications received in accordance with Article 9.
- 14.6. the dates on which this Agreement shall enter into force for Contracting Parties in accordance with Article 11.
- 14.7. notifications of withdrawal from this Agreement received in accordance with Article 12.
- 14.8. the date of entry into force of any amendment to this Agreement in accordance with Article 13.
- 14.9. notifications received in accordance with Article 15 regarding territories.

#### ARTICLE 15

##### **EXTENSION OF AGREEMENT TO TERRITORIES**

- 15.1. This Agreement shall extend to any territory or territories of a Contracting Party for whose international relations such Contracting Party is responsible, unless the Contracting Party otherwise specifies, prior to entry into force of the agreement for that Contracting Party.
- 15.2. Any Contracting Party may denounce this Agreement separately for any such territory or territories in accordance with Article 12.

#### ARTICLE 16

##### **SECRETARIAT**

The Secretariat of this Agreement shall be the Executive Secretary of the UN/ECE. The Executive Secretary shall carry out the following secretariat functions:

- 16.1. prepare the meetings of the Executive Committee and the Working Parties;
- 16.2. transmit to the Contracting Parties reports and other information received in accordance with the provisions of this Agreement; and
- 16.3. discharge the functions assigned by the Executive Committee.

## Annex A

### **DEFINITIONS**

For the purposes of this Agreement, the following definitions shall apply:

1. With regard to the global technical regulations developed under this Agreement, the term "accept" means the action by a Contracting Party of allowing the entry of products that comply with a global technical regulation into its market without having adopted that global technical regulation into its respective laws and regulations.
2. With regard to the global technical regulations developed under this Agreement, the term "adopt" means the promulgation of a global technical regulation into the laws and regulations of a Contracting Party.
3. With regard to the global technical regulations developed under this Agreement, the term "apply" means the action of requiring compliance with a global technical regulation by a Contracting Party as of a certain date; in other words, the effective date of the regulation within a Contracting Party's jurisdiction.
4. The term "Article" means an article of this Agreement.
5. The term "consensus vote" means a vote on a matter in which no Contracting Party present and voting objects to the matter in accordance with paragraph 7.2. of Article 7 of Annex B.
6. The term "Contracting Party" means any country, or regional economic integration organization, that is a Contracting Party to this Agreement.
7. The term "equipment and parts which can be fitted and/or be used on wheeled vehicles" means equipment or parts whose characteristics have a bearing on safety, environmental protection, energy efficiency, or anti-theft performance. Such equipment and parts include, but are not limited to, exhaust systems, tyres, engines, acoustic shields, anti-theft alarms, warning devices, and child restraint systems.
8. The term "established global technical regulation" means a global technical regulation that has been placed on the Global Registry in accordance with this Agreement.
9. The term "listed technical regulation" means a national or regional technical regulation that has been placed on the Compendium of Candidates in accordance with this Agreement.
10. The term "manufacturer self-certification" means a Contracting Party's legal requirement that a manufacturer of wheeled vehicles, equipment and/or parts which can be fitted and/or be used on wheeled vehicles must certify that each vehicle, item of equipment or part that the manufacturer introduces into commerce satisfies specific technical requirements.

11. The term "regional economic integration organization" means an organization which is constituted by, and composed of, sovereign countries, and which has competence in respect of matters covered by this Agreement, including the authority to make decisions binding on all of its Member Countries in respect of those matters.
12. The term "Secretary-General" means the Secretary-General of the United Nations.
13. The term "transparent procedures" means procedures designed to promote the public awareness of and participation in the regulatory development process under this Agreement. They shall include the publication of:
  - (1) notices of meetings of the Working Parties and of the Executive Committee; and
  - (2) working and final documents.They shall also include the opportunity to have views and arguments represented at:
  - (1) meetings of Working Parties through organizations granted consultative status; and
  - (2) meetings of Working Parties and of the Executive Committee through pre-meeting consulting with representatives of Contracting Parties.
14. The term "type approval" means written approval of a Contracting Party (or competent authority designated by a Contracting Party) that a vehicle and/or any item of equipment and/or part that can be fitted and/or be used on a vehicle, satisfies specific technical requirements, and is used as a precondition to the introduction of the vehicle, equipment or part into commerce.
15. The term "UN/ECE Regulations" means United Nations/Economic Commission for Europe Regulations adopted under the 1958 Agreement.
16. The term "Working Party" means a specialized technical subsidiary body under the ECE whose function is to develop recommendations regarding the establishment of harmonized or new global technical regulations for inclusion in the Global Registry and to consider amendments to the global technical regulations established in the Global Registry.
17. The term "1958 Agreement" means the Agreement concerning the Adoption of Uniform Technical Prescriptions for Wheeled Vehicles, Equipment and Parts which can be fitted and/or be used on Wheeled Vehicles and the Conditions for Reciprocal Recognition of Approvals Granted on the Basis of these Prescriptions.

Annex B

**COMPOSITION AND RULES OF PROCEDURE OF THE EXECUTIVE COMMITTEE**

Article 1

Membership in the Executive Committee shall be limited to Contracting Parties.

Article 2

All Contracting Parties shall be members of the Executive Committee.

Article 3

- 3.1. Except as provided in paragraph 3.2. of this Article, each Contracting Party shall have one vote.
- 3.2. If a regional economic integration organization and one or more of its Member States are Contracting Parties to this Agreement, the regional economic integration organization shall, in matters within its competence, exercise its right to vote with a number of votes equal to the number of its Member States that are Contracting Parties to this Agreement. Such an organization shall not exercise its right to vote if any of its Member States exercises its right, and vice versa.

Article 4

In order to cast its own vote, a Contracting Party shall be present. A Contracting Party need not be present for the casting of a vote by its regional economic integration organization.

Article 5

- 5.1. A quorum consisting of not less than half of all the Contracting Parties shall be present for the taking of a vote.
- 5.2. For purposes of determining a quorum under this Article, and determining the number of Contracting Parties needed to constitute one-third of the Contracting Parties present and voting under paragraph 7.1. of Article 7 of this Annex, a regional economic integration organization and its Member States shall be counted as one Contracting Party.

Article 6

- 6.1. The Executive Committee shall, at its first session each calendar year, elect a Chairman and Vice-Chairman from its membership. The Chairman and Vice-Chairman shall be elected by a two-thirds affirmative vote of all Contracting Parties present and voting.

- 6.2. Neither the Chairman, nor the Vice-Chairman, shall come from the same Contracting Party more than two years in succession. In any year, the Chairman and Vice-Chairman shall not come from the same Contracting Party.

#### Article 7

- 7.1. A national or regional regulation shall be listed in the Compendium of Candidates by an affirmative vote of either at least one-third of the Contracting Parties present and voting (as defined in Article 5.2. of this Annex), or one-third of the total number of votes cast, whichever is more favourable to achieving an affirmative vote. In either case, the one-third shall include the vote of either the European Community, Japan or the United States, if any of them are Contracting Parties.
- 7.2. Establishing a global technical regulation in the Global Registry, amending an established global technical regulation and amending this Agreement shall be by a consensus vote of the Contracting Parties present and voting. A present and voting Contracting Party that objects to a matter for which a consensus vote is necessary for adoption shall provide a written explanation of its objection to the Secretary-General within sixty (60) days from the date of the vote. If such Contracting Party fails to provide such explanation during that period, it shall be considered as having voted in favour of the matter on which the vote was taken. If all Contracting Parties that objected to the matter so fail, the vote on the matter shall be considered to have been a consensus vote in favour of the matter by all persons present and voting. In that event, the date of the vote shall be considered to be the first day after that 60-day period.
- 7.3. All other matters requiring resolution may, at the discretion of the Executive Committee, be resolved by the voting process set forth in paragraph 7.2. of this Article.

#### Article 8

Contracting Parties that abstain from voting are considered as not voting.

#### Article 9

The Executive Secretary shall convene the Executive Committee whenever a vote is required to be taken under Article 5, 6 or 13 of this Agreement or whenever necessary to conduct activities under this Agreement

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Annex IV

**AGREEMENT CONCERNING THE ADOPTION  
OF UNIFORM CONDITIONS FOR PERIODICAL TECHNICAL  
INSPECTIONS OF WHEELED VEHICLES AND THE  
RECIPROCAL RECOGNITION OF SUCH INSPECTIONS  
DONE AT VIENNA ON 13 NOVEMBER 1997**

(Reproduction of document ECE/RCTE/CONF./4)

## Preamble

THE CONTRACTING PARTIES,

RECOGNIZING the growth of road traffic and the resultant increase in danger and nuisance which presents all Contracting Parties with safety and environmental problems of a similar nature and seriousness;

DESIRING to achieve greater uniformity in the rules governing road traffic in Europe and to ensure a higher level of safety and protection of the environment;

DESIRING to define for this purpose uniform conditions on Periodical Technical Inspections of wheeled vehicles that it will suffice for these vehicles to fulfil in order to be certified in their countries;

WHEREAS the time needed to carry out such Periodical Technical Inspections of certain wheeled vehicles and the expense thereby incurred are factors which can affect the competitive conditions between road-transport operators in the territories of the Contracting Parties; whereas the present systems of testing vary from one territory to another;

WHEREAS it is therefore necessary to harmonize as far as possible the frequency of tests and the compulsory items to be tested;

WHEREAS the fixing of the date of application of the measure referred to in this Agreement should allow time for the administrative and technical arrangements required for carrying out the tests to be set up or extended in scope;

HAVE AGREED as follows:

### Article 1

The Contracting Parties shall establish Rules for periodical technical inspections of wheeled vehicles registered or taken into service in their territory and shall reciprocally recognize the inspections carried out in accordance with those Rules. The Rules shall be established through an Administrative Committee made up of all the Contracting Parties in conformity with the Rules of Procedure set out in Appendix 1 and on the basis of the following paragraphs and articles.

For the purposes of this Agreement,

the term "wheeled vehicles" shall include any motor vehicles and their trailers;

the term "technical inspection" shall include the inspection of any equipment and parts which are used on wheeled vehicles and whose characteristics have a bearing on road safety, protection of the environment and energy saving; the term "rules for periodical technical inspections of wheeled vehicles" shall include provisions for the proof of the periodical administrative uniform procedure by which the competent authorities of a Contracting Party declare, after the required verifications have been carried out, that the wheeled vehicle conforms to the requirements of the given Rules.

As proof shall serve a technical inspection certificate the model of which is reproduced in Appendix 2 to this Agreement.

## Article 2

1. A Rule, after having been established in accordance with the procedure indicated in Appendix 1, shall be communicated by the Administrative Committee to the Secretary-General of the United Nations, hereinafter called "Secretary-General". As soon as possible thereafter the Secretary-General shall give notification of this Rule to the Contracting Parties.

The Rule will be considered as adopted unless, within a period of six months from its notification by the Secretary-General, more than one-third of the Contracting Parties at the time of notification have informed the Secretary-General of their disagreement with the Rule.

The Rule shall cover the following:

- (a) the categories of wheeled vehicles concerned and the frequency of its inspection;
- (b) the equipment and/or parts to be inspected;
- (c) Test methods by which any performance requirements are to be demonstrated;
- (d) Conditions for granting inspection certificate and their reciprocal recognition
- (e) The date(s) on which the Rule enters into force.

The Rule may, if needed, include references to the test centres accredited by the competent authorities where the inspections of wheeled vehicles may be carried out.

2. When a Rule has been adopted the Secretary-General shall so notify as soon as possible all the Contracting Parties, specifying which Contracting Parties have objected and in respect of which the Rule shall not enter into force.

3. The adopted Rule shall enter into force on the date(s) specified therein as a Rule annexed to this Agreement for all Contracting Parties which did not notify their disagreement.

4. Any new Contracting Party may, when depositing its instrument of accession, declare that it is not bound by certain Rules then annexed to this Agreement or that it is not bound by any of them. If, at that time, the procedure laid down in paragraphs 1, 2 and 3 of this Article is in progress for a draft rule, the Secretary-General shall communicate such draft rule to the new Contracting Party and the draft shall enter into force as a Rule for the new Contracting Party only on the conditions specified in paragraph 3 of this Article, the time allowed being counted from the date of the communication of the draft to that Party. The Secretary-General shall notify all the Contracting Parties of the date of such entry into force. He shall also communicate to them all declarations concerning the non-application of certain Rules that any Contracting Party may make in accordance with the terms of this paragraph.

5. Any Contracting Party applying a Rule may at any time notify the Secretary-General, subject to one year's notice, that its administration intends to cease applying it. Such notification shall be communicated by the Secretary-General to the other Contracting Parties.

6. Any Contracting Party not applying a Rule may at any time notify the Secretary-General that it intends henceforth to apply it, and the Rule will then enter into force for this Party on the sixtieth day after this notification. The Secretary-General shall notify all the Contracting Parties of every entry into force of a Rule for a new Contracting Party effected in accordance with the terms of this paragraph.

7. The Contracting Parties for which a Rule is in force shall hereinafter be referred to as "the Contracting Parties applying a Rule."

8. The Rules annexed to this Agreement as Addenda to this Agreement shall form an integral part thereof.

### Article 3

The Rules annexed to this Agreement may be amended in accordance with the following procedure:

1. Amendments to Rules shall be established by the Administrative Committee as described in Articles 1 and 2 and in accordance with the procedure indicated in Appendix 1. An amendment to the Rule, after having been established, shall be communicated by the Administrative Committee to the Secretary-General. As soon as possible thereafter the Secretary-General shall give notification of this amendment to the Contracting Parties applying the Rule.

2. An amendment to a Rule will be considered to be adopted unless, within a period of six months from its notification by the Secretary-General, more than one-third of the Contracting Parties applying the Rule at the time of notification have informed the Secretary-General of their disagreement with the amendment. If, after this period, the Secretary-General has not received declarations of disagreement of more than one-third of the Contracting Parties applying the Rule, the Secretary-General shall as soon as possible declare the amendment as adopted and binding upon those Contracting Parties applying the Rule who did not declare themselves opposed to it. When a Rule is amended and at least one-fifth of the Contracting Parties applying the unamended Rule subsequently declare that they wish to continue to apply the unamended Rule, the unamended Rule will be regarded as an alternative to the amended Rule and will be incorporated formally as such into the Rule with effect from the date of adoption of the amendment or its entry into force. In this case the obligations of the Contracting Parties applying the Rule shall be the same as set out in paragraph 1.

3. Should a new Contracting Party accede to this Agreement between the time of the notification of the amendment to a Rule by the Secretary-General and its entry into force, the Rule in question shall not enter into force for that Contracting Party until two months after it has formally accepted the amendment or two months after the lapse of a period of six months since the communication to that Party by the Secretary-General of the proposed amendment.

#### Article 4

1. Countries members of the Economic Commission for Europe, countries admitted to the Commission in a consultative capacity in accordance with paragraph 8 of the Commission's Terms of Reference, and regional economic integration organizations set up by countries members of the Economic Commission for Europe to which their Member States have transferred powers in the fields covered by this Agreement, including the power to make binding decisions on their Member States, may become Contracting Parties to this Agreement.

For the determination of the number of votes referred to in Article 2, paragraph 1 and in Article 3, paragraph 2, regional economic integration organizations vote with the number of votes of their Member States being members of the Economic Commission for Europe.

2. Countries Members of the United Nations as may participate in certain activities of the Economic Commission for Europe in accordance with Paragraph 11 of the Commission's Terms of Reference and regional economic integration organizations of such countries to which their Member States have transferred powers in the fields covered by this Agreement including power to make binding decisions on their Member States may become Contracting Parties to this Agreement.

For the determination of the number of votes referred to in Article 2, paragraph 1 and in Article 3, paragraph 2, regional economic integration organizations vote with the number of votes of their Member States being Members of the United Nations.

3. Countries under paragraphs 1 and 2 of this Article may become Contracting Parties to the Agreement:

- (a) by signing it without reservation to a ratification;
- (b) by ratifying it after signing it subject to ratification;
- (c) by acceding to it.

4. Ratification or accession shall be effected by the deposit of an instrument with the Secretary-General of the United Nations.

5. The Agreement shall be open for signature from 12 November 1997 until 30 June 1998 inclusive. Thereafter, it shall be open for accession.

#### Article 5

1. This Agreement shall come into force on the sixtieth day after five of the countries referred to in paragraph 1 of Article 4 thereof have signed it without reservation of ratification or have deposited their instruments of ratification or accession.

2. For any country ratifying or acceding to the Agreement after its entry into force this Agreement shall enter into force on the sixtieth day after the said country has deposited its instrument of ratification or accession.

## Article 6

1. Any Contracting Party may denounce this Agreement by so notifying the Secretary-General of the United Nations.
2. Denunciation shall take effect twelve months after the date of receipt by the Secretary-General of such notification.

## Article 7

1. Any country may, at the time of signing this Agreement without reservation of ratification or of depositing its instrument of ratification or accession or at any time thereafter, declare by notification addressed to the Secretary-General of the United Nations that this Agreement shall extend to all or any of the territories for the international relations of which it is responsible. The Agreement shall extend to the territory or territories named in the notification as from the sixtieth day after its receipt by the Secretary-General or, if on that day the Agreement has not yet entered into force, as from its entry into force.
2. Any country which has made a declaration in accordance with paragraph 1 of this Article extending this Agreement to any territory for whose international relations it is responsible may denounce the Agreement separately in respect of that territory, in accordance with the provisions of Article 6.

## Article 8

1. Any dispute between two or more Contracting Parties concerning the interpretation or application of this Agreement shall, so far as possible, be settled by negotiation between them.
2. Any dispute which is not settled by negotiation shall be submitted to arbitration if any one of the Contracting Parties in dispute so requests and shall be referred accordingly to one or more arbitrators selected by agreement between the Parties in dispute. If within three months from the date of the request for arbitration the Parties in dispute are unable to agree on the selection of an arbitrator or arbitrators, any of those Parties may request the Secretary-General of the United Nations to nominate a single arbitrator to whom the dispute shall be referred for decision.
3. The decision of the arbitrator or arbitrators appointed in accordance with paragraph 2 of this Article shall be binding on the Contracting Parties in dispute.

## Article 9

1. Each Contracting Party may, at the time of signing, ratifying or acceding to this Agreement, declare that it does not consider itself bound by Article 8 of the Agreement. Other Contracting Parties shall not be bound by Article 8 in respect of any Contracting Party which has entered such a reservation.

2. Any Contracting Party having entered a reservation as provided for in paragraph 1 of this Article may at any time withdraw such reservation by notifying the Secretary-General of the United Nations.
3. No other reservation to this Agreement or to the Rules annexed thereto shall be permitted; but any Contracting Party may, in accordance with the terms of Article 1, declare that it does not propose to apply certain of the Rules or that it does not propose to apply any of them.

#### Article 10

The text of the Agreement itself and of its Appendices may be amended in accordance with the following procedure:

1. Any Contracting Party may propose one or more amendments to this Agreement and its Appendices. The text of any proposed amendment to the Agreement and its Appendices shall be transmitted to the Secretary-General, who shall transmit it to all Contracting Parties and inform all other countries referred to in paragraph 1 of Article 4 thereof.
2. Any proposed amendment circulated in accordance with paragraph 1 of this Article shall be deemed to be accepted if no Contracting Party expresses an objection within a period of six months following the date of circulation of the proposed amendment by the Secretary-General.
3. The Secretary-General shall, as soon as possible, notify all Contracting Parties whether an objection to the proposed amendment has been expressed. If an objection to the proposed amendment has been expressed, the amendment shall be deemed not to have been accepted, and shall be of no effect whatever. If no such objection has been expressed, the amendment shall enter into force for all Contracting Parties three months after the expiry of the period of six months referred to in paragraph 2 of this Article.

#### Article 11

In addition to the notification provided for in Articles 2, 3 and 5 of this Agreement, the Secretary-General of the United Nations shall notify the Contracting Parties of:

- (a) signatures, ratifications and accessions in accordance with Article 4;
- (b) the dates of entry into force of this Agreement in accordance with Article 5;
- (c) denunciations in accordance with Article 6;
- (d) notifications received in accordance with Article 7;
- (e) declarations and notifications received in accordance with paragraphs 1 and 2 of Article 9;
- (f) the entry into force of any amendment in accordance with paragraphs 1 and 2 of Article 3;
- (g) the entry into force of any amendment in accordance with paragraph 3 of Article 5. \*/

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\*/ Read "paragraph 3 of Article 10" (see TRANS/WP.29/815, para. 115).

Article 12

Bodies or establishments designated and directly supervised by the Contracting Party may carry out periodical technical inspections in accordance with this Agreement on behalf of an other Contracting Party.

Article 13

After 30 June 1998 the original of this Agreement shall be deposited with the Secretary-General of the United Nations, who shall transmit certified true copies to each of the countries mentioned in paragraphs 1 and 2 of Article 4 thereof.

\* \* \*

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Agreement.

DONE at Vienna on 13 November 1997 in a single copy in the English, French and Russian languages, each text being equally authentic.

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## Appendix 1

### COMPOSITION AND RULES OF PROCEDURE OF THE ADMINISTRATIVE COMMITTEE

#### Article 1

The members of the Administrative Committee shall be composed of all the Contracting Parties to the Agreement.

#### Article 2

The Executive Secretary of the United Nations Economic Commission for Europe shall provide the Committee with secretariat services.

#### Article 3

The Committee shall, at its first session each year, elect a Chairman and Vice-Chairman.

#### Article 4

The Secretary-General of the United Nations shall convene the Committee under the auspices of the Economic Commission for Europe whenever a new Rule or an amendment to a Rule is required to be established.

#### Article 5

Proposed new Rules shall be put to the vote. Each country, Contracting Party to the Agreement shall have one vote. A quorum consisting of not less than half of the Contracting Parties is required for the purposes of taking decisions. For the determination of the quorum regional economic integration organizations, being Contracting Parties to the Agreement, vote with the number of votes of their Member States. The representative of a regional economic integration organization may deliver the votes of its constituent sovereign countries. New Draft Rules shall be established by a two-thirds majority of those present and voting.

#### Article 6

Proposed amendments to Rules shall be put to the vote. Each country, Contracting Party to the Agreement applying the Rule shall have one vote. A quorum of not less than half of the Contracting Parties applying the Rule is required for the purposes of taking decisions. For the determination of the quorum, regional economic integration organizations, being Contracting Parties to the Agreement, vote with the number of votes of their Member States. The representative of a regional economic integration organization may deliver the votes of those of its constituent sovereign countries which apply the Regulation. Draft Amendments to Rules shall be established by a two-thirds majority of those present and voting.

## Appendix 2

### INTERNATIONAL TECHNICAL INSPECTION CERTIFICATE

1. Accredited Technical Inspection Centres are responsible for conducting the inspection tests, granting the approval of compliance with the inspection requirements of the relevant Rule(s) annexed to the 1997 Vienna Agreement, and specifying the latest date of next inspection to be indicated in line No. 12.5 of the International Technical Inspection Certificate, the model of which is reproduced hereafter;
2. The International Technical Inspection Certificate shall contain the information indicated hereafter. It may be a booklet in format A6 (148x105 mm), with a green cover and white inside pages, or a sheet of green or white paper of format A4 (210x197) folded to format A6 in such a way that the section containing the distinguishing sign of the state or of the United Nations forms the top of the folded Certificate.
3. Items of the certificate and their content shall be printed in the national language of the issuing Contracting Party by maintaining the numbering.
4. The periodical inspection reports which are in use in the Contracting Parties to the Agreement may be used as an alternative. A sample of them shall be transmitted to the Secretary-General of the United Nations for information to the Contracting Parties.
5. Handwritten, typed or computer generated entries on the International Technical Inspection Certificate to be made exclusively by the competent authorities, shall be in Latin characters.

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Appendix 2 (cont'd)

CONTENT OF THE INTERNATIONAL TECHNICAL INSPECTION CERTIFICATE

<p>Space for the distinguishing sign of the state or of the UN</p>
<p>..... (Administrative Authority responsible for technical inspection)</p>
<p>..... <u>1/</u></p>
<p>CERTIFICAT INTERNATIONAL DE CONTROLE TECHNIQUE <u>2/</u></p>

1/ Title "INTERNATIONAL TECHNICAL INSPECTION CERTIFICATE" in national language.

2/ Title in French.

Appendix 2 (cont'd)

INTERNATIONAL TECHNICAL INSPECTION CERTIFICATE

1. Licence plate (Registration) No . . . . .
2. Vehicle identification No. . . . .
3. First registration after the manufacture (State, Authority). . . . . 1/
4. Date of first registration after the manufacturer . . . . .
5. Date of the technical inspection . . . . .

CERTIFICATE OF COMPLIANCE

6. This certificate is issued for the vehicle identified under Nos. 1 and 2 which complies at the date under No 5 with the Rule(s) annexed to the 1997 Agreement on the Adoption of Uniform Conditions for Periodical Technical Inspections of Wheeled Vehicles and the Reciprocal Recognition of such Inspections.
7. The vehicle has to undergo its next technical inspection according to the Rule(s) under No. 6 not later than:  
  
Date: (month/year) . . . . .
8. Issued by . . . . .
9. At (Place). . . . .
- 10 Date. . . . .
11. Signature . . . . .

2/

1/ If available, authority and state where the vehicle was registered for the first time after its manufacture.

2/ Seal or stamp of the authority issuing the certificate.

Appendix 2 (cont'd)

12. Subsequent periodical technical inspection(s) <u>1/</u>
12.1. Done by (Technical inspection Centre) . . . . . <u>2/</u>
12.2. . . . . (stamp)
12.3. Date . . . . .
12.4. Signature . . . . .
12.5. Next inspection due not later than (month/year). . . . .

- 1/ Items 12.1 to 12.5 to be repeated if the Certificate is to be used for subsequent annual periodical technical inspections.
- 2/ Name, Address, State of the Technical Inspection Centre accredited by the competent Authority.

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Annex V

**LIST OF NON-GOVERNMENTAL ORGANIZATIONS CURRENTLY  
PARTICIPATING ON A REGULAR BASIS IN THE ACTIVITIES OF WP.29**

OICA	International Organization of Motor Vehicle Manufacturers - This is the global umbrella organization of national motor vehicle manufacturer associations.
CLEPA	European Association of Automotive Suppliers - This is an international umbrella organization of component and system manufacturers and their national associations.
IMMA	International Motorcycle Manufacturers Association - This is an international organization of national motorcycle manufacturers associations and manufacturers.
AIT/FIA	International Alliance of Tourism/International Automobile Federation - This is an international organization of national Automobile Clubs.
CI	Consumers International - This is the international organization of national consumer associations.
ISO	International Organization for Standardization - This is a global organization that develops voluntary technical standards in many areas.
GTB	Working Party "Brussels 1952" - This is an international association of lighting experts and lighting equipment manufacturers.
ETRTO	European Tyre and Rim Technical Organization - This is an international organization of tyre and wheel manufacturers.
FEMFM	Federation of European Manufacturers of Friction Materials
CEMA	European Committee of Associations of Manufacturers of Agricultural Machinery
CITA	International Motor Vehicle Inspection Committee
AECC	Association for Emissions Control by Catalyst
AEGPL	European LPG Association
BLIC	Liaison Office of the Rubber Industry of the EC
BIPAVER	Bureau internationale permanent des associations de vendeurs et rechangeurs de pneumatiques
CEA	European Insurance Committee

CIDADEC	International Confederation of Experts and Consultants
CONCAWE	The Oil Companies European Organization for Environment, Health and Safety
EEVC	European Enhanced Vehicle-safety Committee
ENGVA	European Natural Gas Vehicle Association
EUROMOT	European Association of Internal Combustion Engine Manufacturers
EUWA	Association of European Wheel Manufacturers
IEC	International Electrotechnical Commission
IRU	International Road Transport Union
SAE	Society of Automotive Engineers
UITP	International Union of Public Transport
UNATAC	Union of Technical Assistance for Motor Vehicle and Road Traffic

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Annex VI

**NATIONAL AND REGIONAL REGULATORY DEVELOPMENT  
AND ENFORCEMENT PROCESSES**

**EUROPEAN COMMUNITY**

**JAPAN**

**RUSSIAN FEDERATION**

**UNITED STATES OF AMERICA**

**CANADA**

## Section 1

### **REGULATORY PROCESS - EUROPEAN COMMUNITY**

The European Community has been engaged in the work of technical harmonization in the motor vehicle construction sector (power-driven and other road vehicles with four or more wheels, including agricultural and forestry tractors) since the 1960s; this has led to date to the adoption of more than 80 Directives enabling EC type-approval to be granted for types of vehicle or components. Similar work in the sector of two- or three-wheeled vehicles and their components begun in 1989 and has led to the adoption of 13 Directives for the full type approval of such vehicles.

While the basic aim of these Directives was to harmonize the different forms of legislation in the Member States, it was safety and the protection of the environment that came to predominate in the course of time. The harmonization of these two aspects is effected with the most extreme severity. For motor vehicles of category M1 and two- or three-wheeled vehicles Community legislation is mandatory so that Community requirements, and only those, apply. For vehicles other than those of category M1 and two- or three-wheeled vehicles and for agricultural and forestry tractors Community regulations are still optional in that the constructor has the choice between complying with Community requirements, allowing access of vehicles in conformity with these requirements throughout the territory of the Community, and complying with national requirements, where these exist, permitting free access of vehicles conforming to them only to the territory of member States which in addition to Community requirements have kept their national requirements.

The Directive is the chosen legal medium, i.e. that of an act linking member States in terms of the results to be achieved, but leaving national bodies with competence as regards the form and the means. Most of these Directives are based on work similar to the work done in the context of the United Nations Economic Commission for Europe (UNECE). Equivalence between Community Directives and UNECE Regulations is increasingly sought in order to achieve a geographically wider area of harmonization.

The Community assigns considerable importance to the work of UNECE in this regard, based on the assumption that it has now become the World Forum for the harmonization of motor vehicle construction and performance requirements.

On 24 March 1998 the European Community became a Contracting Party to the UNECE revised 1958 Agreement. By acceding to it, the Community has also acceded to 78 UNECE Regulations annexed to the Agreement, which have become alternatives to the technical annexes of the corresponding Community Directives. The Community's participation in the revised 1958 Agreement is directed in particular at strengthening the importance of the work of harmonization carried out under the Agreement, facilitating access to the markets of third countries and reinforcing consistency between the UNECE Regulations and the Community Directives.

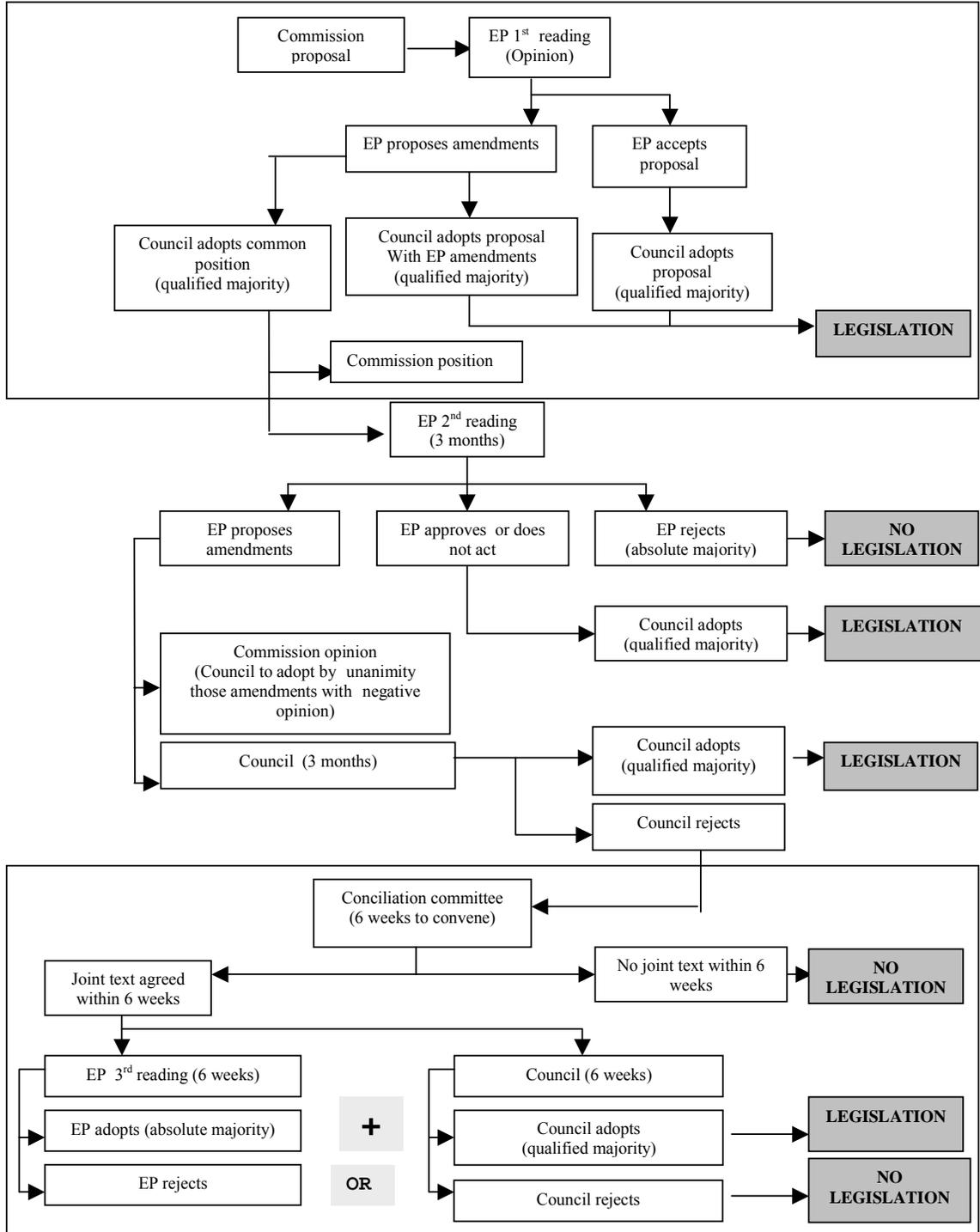
The European Community may at any time recognize other Regulations than the 78 Regulations recognized on its accession to the revised 1958 Agreement, and any new Regulations. For this purpose the Commission will submit a draft decision to the Council which will decide once the

European Parliament has given its approval. Up to date, seven additional Regulations were recognized by this process.

According to the conditions laid down in article 6 of the Council Decision with a view to the accession by the European Community to the revised 1958 Agreement, Member States which will subscribe or have subscribed to UNECE Regulations to which the Community is not bound may continue to manage and develop those Regulations by adopting amendments reflecting technical progress.

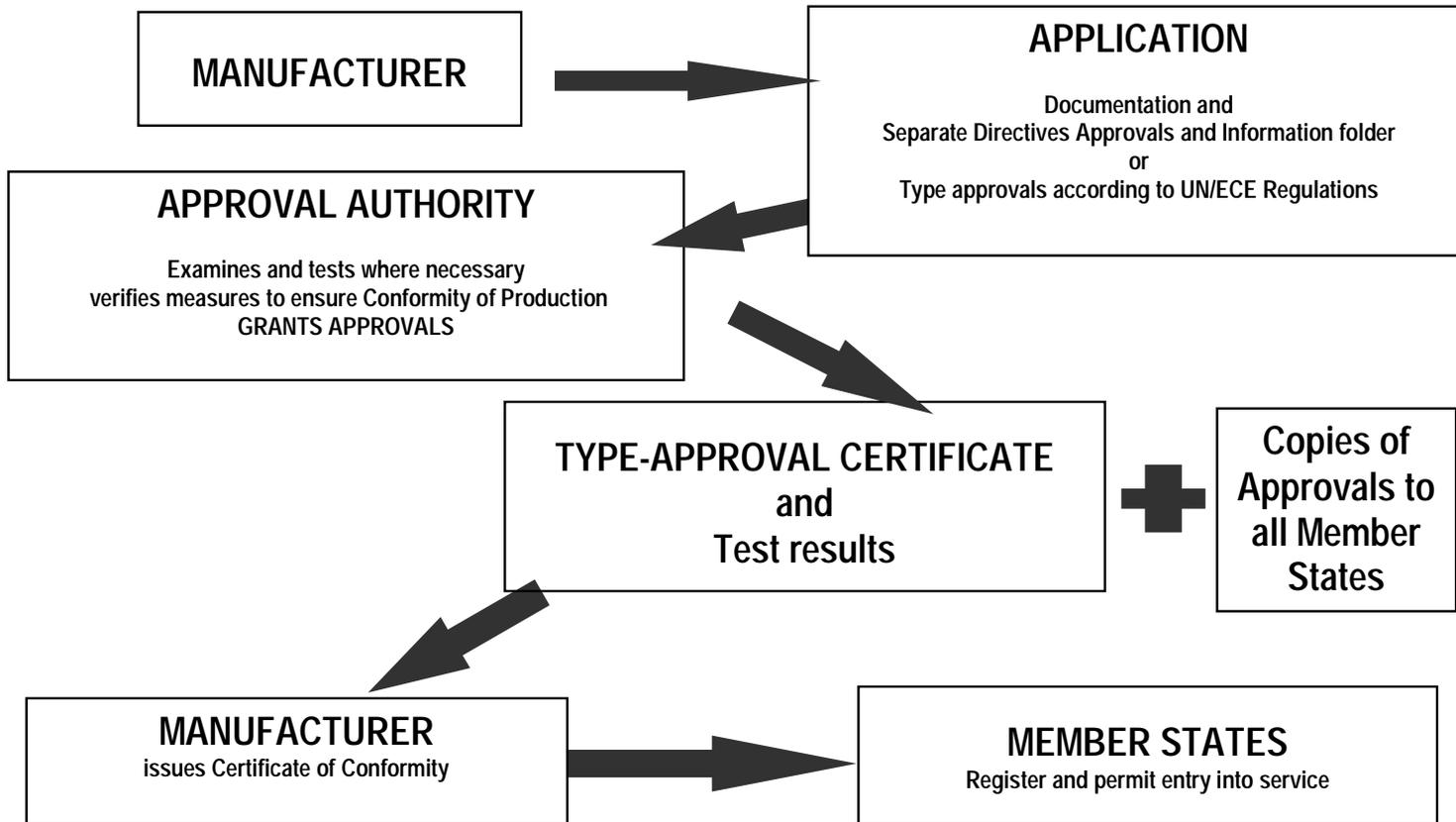
Appendix 1

**Co-decision procedure**



Appendix 2

Operation of EC type-approval (based on Directive 70/156/EEC)



## Section 2

### **REGULATORY PROCESS - JAPAN**

In order to ensure motor vehicle safety and to minimize environmental pollution caused by motor vehicles (i.e. air pollution and noise), the Ministry of Transport has stipulated technical standards necessary for assuring safety and pollution control for motor vehicle construction and devices, based on the Road Vehicles Act. In Japan, no motor vehicle is allowed to be operated on the road, unless it complies with these technical standards.

#### 1. SAFETY STANDARD

##### 1.1. Enactment and amendment procedures

The safety standards are targeted to accident avoidance and minimizing damages in case an accident occurs. In response to changes in factual situation of traffic accidents and modes of use of motor vehicle these safety standards have been amended and strengthened progressively.

Before any expansion or enhancement of a safety standard is implemented, the plans are consulted with the Council for Transport Technology, an advisory committee to the Minister of Transport. In the Council deliberations are carried out in the Subcommittee comprising experts on motor vehicles and based on accidents data, test research and investigations of trends in various foreign countries, as well as contributions by experts and organizations including the users and foreign parties concerned. In this way, from a comprehensive and long-term viewpoint, the Council formulates its recommendation for "Expansion and Strengthening Targets of Motor Vehicle Safety Standards".

In accordance with this recommendation submitted by the Council, the Ministry of Transport prepares the draft for enactment or amendment of a motor vehicle standard, while maintaining the transparency of drafting process, for example, offering opportunities for allowing foreign parties concerned to express their views. After following those steps, the Ministry of Transport notifies WTO of the planned enactment or amendment, finally leading to promulgation of the standard concerned.

##### 1.2. Recent Trend

The number of casualties (dead and injured persons) from automobile traffic accidents has been steadily climbing in Japan over recent years, rising about 1.3 times from 730,000 to 970,000 a year during the ten years between 1987 and 1997. The social demands for the prevention of automobile traffic accidents are growing accordingly.

Because traffic accidents involve vehicles, drivers, road conditions, and other varied factors, the causes of traffic accidents have to be analyzed from many different angles. Based on the result of such analysis, a comprehensive measure to prevent accidents should be taken, including safety improvements in vehicle structures and driving environments.

With the above situations in the backdrop, the Council for Transport Technology, an advisory panel of automobile experts to the Minister for Transport, is deliberating the subject of "Future Automobile Traffic Policy with Due Consideration to Safety and the Environment" (Inquiry No. 24, June 1998). The Council is scheduled to complete the deliberation and submit an advisory report to the Minister for Transport in the spring of 1999.

## 2. ENVIRONMENTAL POLLUTION STANDARDS

### 2.1. Enactment and amendment procedure

Environmental pollution caused by motor vehicle and the adverse effects of motor vehicle noise on the living environment, has given rise to a serious social problem in Japan as its motorization has further advanced. To alleviate these problem the Government of Japan has strengthened the environmental pollution control standards progressively, while endeavouring to promote the technical development of motor vehicle construction and devices.

These control standards have been stipulated in accordance with the recommendations submitted by the Central Council for Environmental Pollution Control, which formulates long-term plans for motor vehicle pollution control standards.

In starting the procedure the recommendations submitted by the Central Council are announced publicly. Then, a technical feasibility study for control items proposed by these recommendations is conducted, including hearing from domestic and foreign motor vehicle manufactures and other related parties. According to its results, the permissible limits are set forth. Next, the draft of pollution control is transmitted to the domestic and foreign parties concerned to ascertain their views and is also notified to WTO. The promulgation of the control standard represents the closing stage of the procedure.

### 2.2. Recent Trends

The following revisions have been made in emission standards in accordance with the targets which the Central Council for Environmental Pollution Control proposed in 1992, 1996, and 1997:

- (a) CO, HC, and NO<sub>x</sub> mode emission limits were initiated for motorcycles and mopeds, and CO and HC idle emission limits introduced for both new and in-use vehicles.
- (b) The emission limits for new gasoline and LPG vehicles -- light-duty trucks, medium-duty vehicles (GVW exceeding 1.7 tonnes but not more than 2.5 tonnes), and heavy-duty vehicles (GVW exceeding 2.5 tonnes) -- were lowered by 35-50 per cent for CO, 66-86 per cent for HC, and 35 per cent for NO<sub>x</sub> (NO<sub>x</sub> reduction applied only to light-duty vehicles).
- (c) The idle CO emission limits for gasoline and LPG four- wheeled vehicles were lowered by 56-78 per cent.

- (d) The emission limits for new diesel heavy-duty vehicles (GVW exceeding 12 tonnes) were lowered by 15-26 per cent for NO<sub>x</sub>, 49 per cent for particulate matter (PM), and 38 per cent for black smoke. The black smoke emission limit for in-use vehicles was lowered by 38 per cent.
- (e) The NO<sub>x</sub>, HC and CO emission limits for new gasoline and LPG vehicles were lowered by 48-69 per cent.
- (f) The requirement to install an on-board diagnosis (OBD) system was initiated for gasoline and LPG vehicles.
- (g) Regarding fuel evaporative gases from gasoline vehicles, evaporative gases during parking in the summer as well as the evaporative gases due to the heated condition of the vehicle immediately after driving were made subject to the same regulation. The required measurement method was altered from the conventional trap method to the SHED method. The latter is performed in a sealed chamber.

### 3. CERTIFICATION SYSTEM

#### 3.1. Motor Vehicle Type Designation

A motor vehicle type designation system is applied to cases where a large number of identical-model cars and other motor vehicles are produced or imported for sale in Japan. Under this system, upon application, samples having the same structure, equipment, and performance as those of the vehicles intended for sale are examined as regards compliance to the safety and environmental regulations; in addition, the uniformity of vehicle quality and performance are examined through documents. A type is designated to the identical-model vehicles that have proved satisfactory.

When a completed inspection certificate is submitted by the vehicle manufacturer, type-designated vehicles are exempted from the new-vehicle inspections that a District Transport Bureau or another pertinent office performs on each vehicle unit.

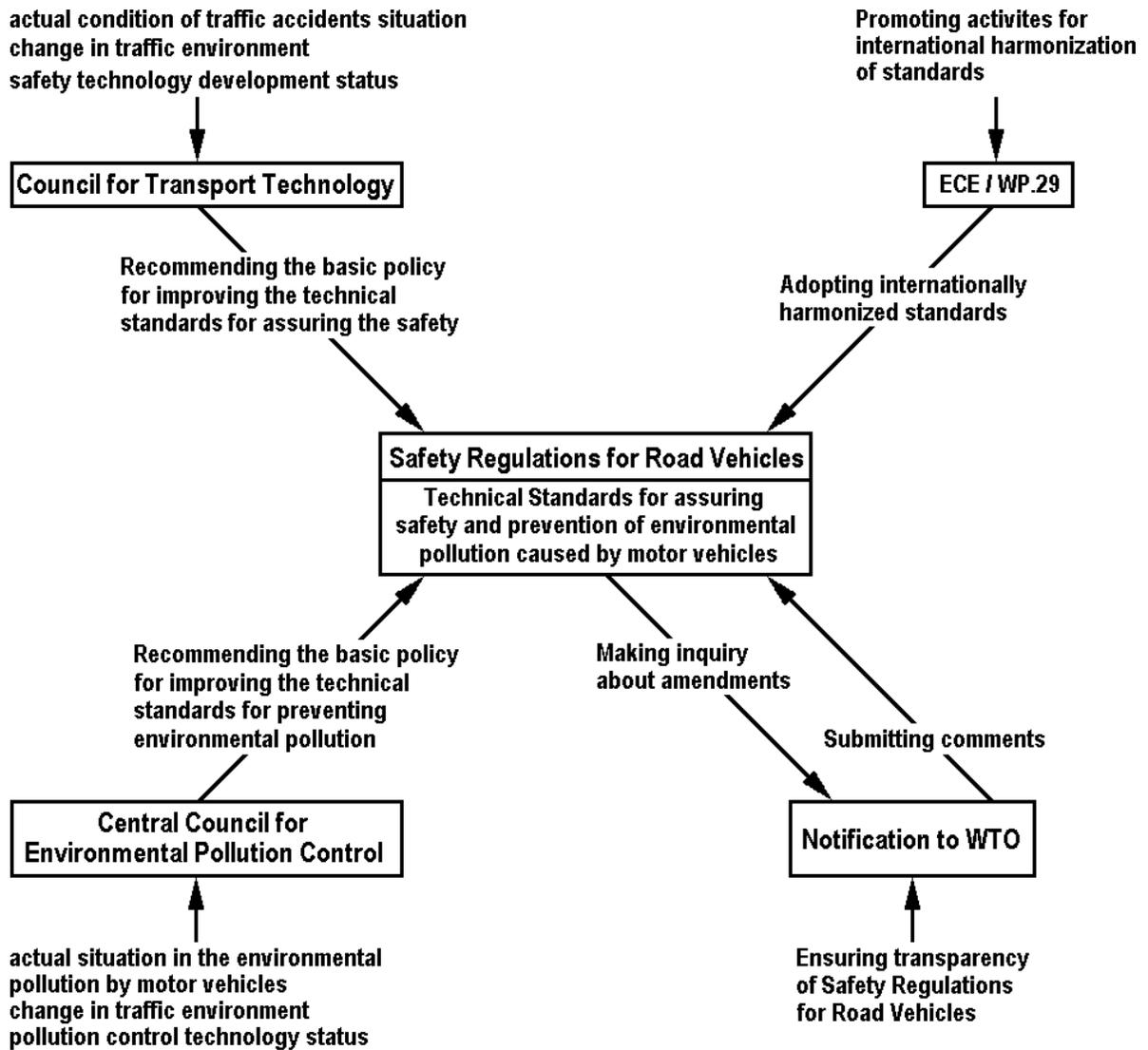
#### 3.2. Mutual Recognition and Equipment Type Designation

In Europe, where a large number of motor vehicles are distributed or driven across national borders, the UNECE 1958 Agreement is in force. Since 1977 Japan has participated in WP.29 on an observer status and has contributed to the global harmonization of brake and lamp regulations.

In November 1998 Japan became the first party outside Europe to accede to the UNECE 1958 Agreement, thus making a determined step toward the globalization of certification systems. As a result of the accession, vehicles which have received certification in Japan are now exempted from certification by other contracting parties for exporting.

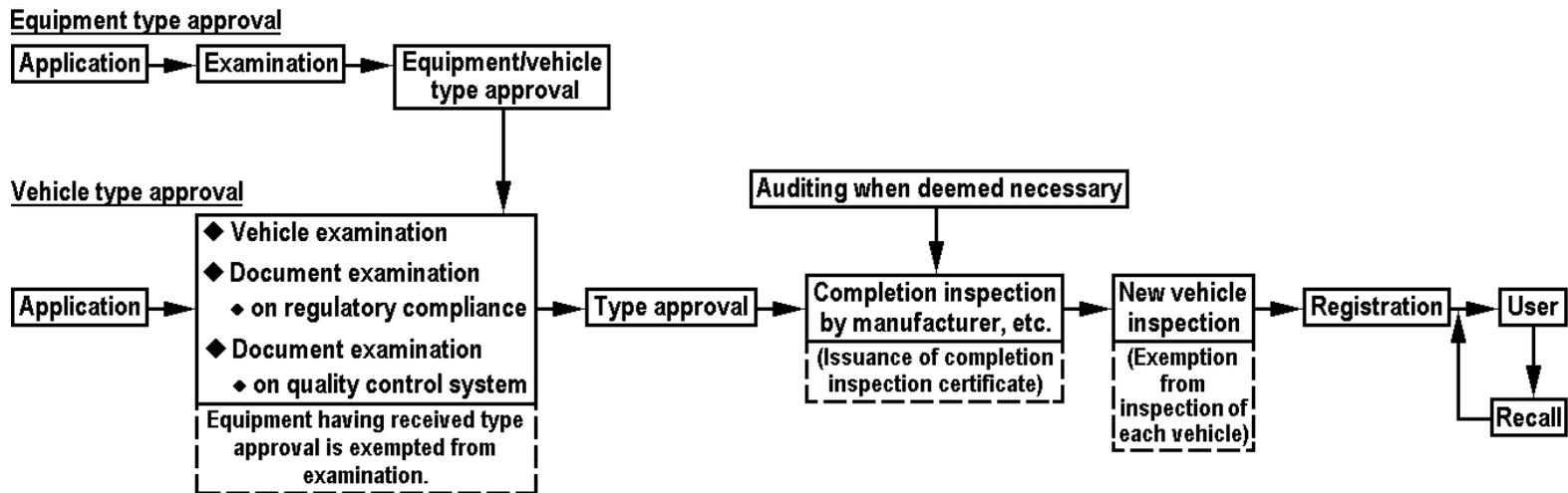
Concurrently with the accession to the UNECE 1958 Agreement, Japan introduced an equipment type designation system responding to the use of the same equipment in a greater number of vehicle models. Equipment which has received equipment type designation becomes entitled to mutual recognition in all the contracting parties to the Agreement. In Japan, for example, those equipment having received equipment type designation is now exempted from the examination for vehicle type designation.

## SAFETY AND ENVIRONMENTAL STANDARDS FOR VEHICLES



Procedure Flow from Vehicle Examination to Registration

Type approval system



\* \* \*

### Section 3

## **REGULATORY PROCESS - RUSSIAN FEDERATION**

### Application of the UNECE Regulations

Certification of motor vehicles has been developed on the legal basis of the Laws of the Russian Federation “On the Protection of Customer Rights”, “On Certification of Products and Services”, “On the Safety of Road Traffic”.

According to the Decree of the Gosstandard of Russia (State Committee for Standardization, Metrology and Certification) dated 26 May 1999, № 184, 86 UNECE Regulations which are declared in the Russian Federation, from 1 July 2000 shall obtain status of the national standards with texts authentic to the UNECE Regulation texts.

At present the Russian Federation has declared application of 107 UNECE Regulations.

### The National System of Motor Vehicle Certification

The basis of the national system for motor vehicle and trailer certification entered into force from 1 April 1992. is the UN ECE Regulations. Procedure of certification is regulated by the “Rules of Conduction of Works in the System of Motor Vehicle and Trailer Certification” approved by the Gosstandard of Russia, the Ministry of Internal Affairs, the Ministry of Transport and registered by the Ministry of Justice of Russia.

This system is a part of the federal system of product and service certification.

Certification system establishes lists of the technical requirements, which are mandatory for motor vehicles. These requirements include the UNECE Regulations and national standards of Russia, which takes into account specific features of road and climatic conditions of Russia.

Though the Russian Federation is not a Member-state of the European Community and therefore has not certificate reciprocal recognition agreement. In order to reduce trade barriers, Russian certification system provides for recognition of certificates of the EC Directives in accordance with list of the EC Directives, which are equivalent to the UNECE Regulations.

“Vehicle Type Approval” is a document, which is the basis for manufacturing and sale of motor vehicles in Russia and for its import into Russia that is analogous to “Whole Vehicle Type Approval” established in the EC.

In Russia “Vehicle Type Approval” is granted for all categories of motor vehicles for the period not more than three years as it is provided for by the Law of the Russian Federation “On Certification of Products and Services”.

A manufacturer could extend “Vehicle Type Approval” for the next period in case of observation of certain conditions.

The lists of technical requirements that are mandatory for issue of “Vehicle Type Approval” now consist of 58 UNECE Regulations and nine national standards.

34 UNECE Regulations and seven national standards are applied to M1 category vehicles, and it is taken into account during certification that three of national standards are close to the European standards.

30 UNECE Regulations and nine national standards are applied to M2 and M3 category vehicles.

33 UNECE Regulations and eight national standards are applied to N1 category vehicles.

32 UNECE Regulations and eight national standards are applied to N2 and N3 category vehicles.

10 UNECE Regulations and four national standards are applied to O1 and O2 category vehicles.

14 UNECE Regulations and three national standards are applied to O3 and O4 category vehicles.

17 UNECE Regulations and two national standards are applied to L1 – L5 category vehicles.

For certification of specialized construction vehicles and public works vehicles additional special safety requirements are applied.

For the certification of motor vehicles produced or imported into the territory of the Russian Federation in small series, as well as for vehicles manufactured from assembly kits special procedures of granting “Vehicle Type Approval Certificate” are provided according to the short list of requirements, e.g. minimum number of the requirements for M1 category vehicles is 11.

The feasibility of recognition of the manufacturer's own test reports is provided.

Quantity of vehicles of small series (lot) for L1 – L5, M1 and O1 – O2 category vehicles shall not exceed 150 vehicles per year, for M2, N1 – N3, O3 – O4 category vehicles – 100 vehicles per year and for M3 category vehicles – 50 vehicles per year.

In the above-mentioned cases “Vehicle Type Approval” is granted for the period of one year.

In certain cases certification system allows application of amendments to the UNECE Regulations that are not the latest.

Inclusion of additional national standards, the UNECE Regulations and the latest amendments to them periodically updates the list of mandatory technical requirements applied for the purpose of certification. List of complete technical requirements applicable for motor vehicles and trailers, their parts and equipment in the Russian Federation contains those standards and the UNECE Regulations with the latest amendments to them. There is transitional period provided for actual production that, as a rule, is two years.

Spare parts and accessories for motor vehicles and trailers certification is conducted in the same system according to special procedure. This procedure allows to use the results of certification tests of the type of vehicle, which was conducted for the purpose of issuing “Vehicle Type Approval”, for the purposes of issuing Certificate of compliance for the spare parts that are indicated in the design documents of the vehicle.

Certification system includes inspection of production before issuing of a Certificate of compliance or “Vehicle Type Approval” and the inspection of manufacturing of certified product as well. The inspections are analogous to the procedures approved in the EC Directives and UNECE Regulations. The certification system provides also for the measures taken in case of non-compliance of the product with the established requirements.

### Summary

The Russian Federation step by step pursues a purposeful policy of harmonization of national technical requirements with international requirements. Therefore it pursues a policy of reducing trade barriers. The UNECE Regulations make the basis of the motor vehicles certification system in Russia because they fully meet tasks and targets of the Russian Federation in the improvement of traffic safety and environment protection.

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## Section 4

### **RULEMAKING PROCESS - UNITED STATES OF AMERICA**

#### Table of Contents

- I. Introduction
- II. Federal Rulemaking
  - A. Congressional Authorization
  - B. Agency Action
    - 1. Initiation of Rulemaking
    - 2. Information about Rulemaking Plans, Activities and Documents
    - 3. Inter-agency and Inter-governmental Coordination
    - 4. The Administrative Procedure Act
      - a. Preliminary Notices
      - b. Notice of Proposed Rulemaking
      - c. Supplemental Notice of Proposed Rulemaking
      - d. Final Rule
      - e. Response to Petitions for Reconsideration
    - 5. Other Opportunities for Public Participation
    - 6. Other Rulemaking Requirements
  - C. Congressional Review
  - D. Judicial Review
- III. U.S Process for Assuring Compliance with Safety and Emission Standards
- IV. Glossary of Acronyms
- V. For Further Information, Contact

#### **I. Introduction**

Described here is the rulemaking system used in the U.S. by the Environmental Protection Agency (EPA) and National Highway Traffic Safety Administration (NHTSA) to establish regulations for wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles. <sup>1/</sup> The description focuses primarily on the informal rulemaking process set forth in the Administrative Procedure Act, 5 U.S.C. " 551, *et seq.* (APA). This focus is appropriate since rules establishing regulations for these products are generally subject to the APA and are adopted by EPA and NHTSA using, for the most part, the informal rulemaking process. As well as describing the rulemaking system used in the U.S. by EPA and NHTSA to establish regulations for wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles, this section also briefly discusses the compliance and enforcement system

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<sup>1/</sup> Given its relative brevity, this section makes general statements about the requirements applicable to the development, issuance and review of product regulations. It is important to note that the statutes authorizing the issuance of some types of product standards create exceptions to those generalizations. This section does not attempt to identify or catalogue those exceptions, although it does note some of them.

used in the U.S. by EPA and NHTSA to assure manufacturers' compliance with the safety and emission standards contained within the regulations established through the informal rulemaking process.

## **II. Federal Rulemaking**

### **A. CONGRESSIONAL AUTHORIZATION**

While Congress could establish the details of individual product regulations legislatively, instead it usually delegates authority to U.S. Federal regulatory agencies to establish such regulations administratively pursuant to congressional guidance. The degree of specificity in the guidance varies from statute to statute. At one end of the spectrum, Congress may specify some of the details of a particular standard. At the other, Congress may provide general direction concerning factors to be considered and policy goals to be achieved. The latter is, by far, the more common practice.

When Congress enacts legislation creating a regulatory agency, or giving new authority to an existing regulatory agency, it typically includes provisions that implicitly or explicitly delegate its rulemaking authority to the agency with respect to a specified policy goal. “Rulemaking” is agency action that regulates the future conduct of governmental agencies and persons, 2/ through formulation and issuance of an agency statement designed to implement, interpret or prescribe law or policy. The legislation containing the authority granted by Congress to an agency is known as the agency’s “enabling” legislation.

While the enabling legislation specifies the general purposes for which rulemaking may be conducted, it normally does not identify the individual rules to be adopted to achieve those purposes. The legislation often enumerates the factors that an agency must consider in its rulemaking and may specify criteria that the resulting rules must meet. Those factors and criteria often include practicability (often both economic and technological) and address the role, if any, that the cost of compliance is to play in the agency’s rulemaking.

Occasionally, Congress supplements an agency’s enabling legislation by enacting legislation directing the agency to use its general rulemaking authority in a specific way. In these instances, Congress normally leaves the technical details of the rule to be issued to the discretion of the issuing agency. Congress rarely dictates any of the specific performance requirements to be adopted for products. Further, it does not typically specify any details about regulatory approach, level of stringency or test procedures (although it may impose certain restrictions or define certain parameters).

In addition to enabling legislation, there are various other sources of requirements that govern the development and issuance by Federal agencies of rules regulating products. These sources include other statutes and Presidential Executive Orders that impose procedural requirements

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2/ “Persons” are defined broadly in the APA as “an individual, partnership, corporation, association, or public or private organization other than [a U.S. Federal ] agency.” “Persons” include persons located outside the United States.

which are intended to ensure reasoned and fair decision-making. Except to the extent inconsistent with an agency's enabling legislation or other source of rulemaking authority, these other statutes and Executive Orders require that the agencies adopt these rules only after thoroughly analyzing their potential impact. This analysis typically, but not always, includes an assessment and comparison of either the benefits and costs or the cost-effectiveness of alternative regulatory approaches or levels of stringency. They also require an open and transparent U.S. regulatory process that seeks to afford all participants the opportunity to participate and to understand what the regulatory agencies are doing and why.

## B. AGENCY ACTION

### 1. Initiation of Rulemaking

Most rulemaking proceedings by U.S. Federal agencies are initiated in one of the following three circumstances. First, the agencies may begin a rulemaking proceeding on their own initiative within the limits of their existing enabling legislation or other legislation granting them authority to engage in rulemaking. Second, Federal agencies may also initiate rulemaking within the limits of their existing authority in response to a request by the public. The APA provides that each Federal agency shall give interested persons the right to petition for the issuance, amendment, or repeal of a rule. Agencies must respond to such a petition. If the petition is meritorious and consistent with the agency's priorities and available resources, the agency will grant the petition and begin a rulemaking proceeding. The granting of such a petition and the commencement of a rulemaking proceeding do not necessarily mean that the requested rule will be issued. Further, the first step may not be the issuance of any notice, but the conducting of research to determine if appropriate performance criteria or test procedures can be developed. The decision ultimately whether to issue a rule is made later in accordance with statutory criteria and on the basis of all available information developed or received in the course of the rulemaking proceeding. Third, an agency may be statutorily directed by Congress to begin a specific rulemaking proceeding.

### 2. Information about Rulemaking Plans, Activities and Documents

The official U.S. Government document for publishing regulatory notices is the Federal Register. The Federal Register, which is published each business day, includes all proposed rules, final rules, and notices issued by Federal agencies and organizations, as well as Executive Orders and other Presidential Documents. It is available online (<http://www.access.gpo.gov/nara/#cfr>) without charge.

The Office of Management and Budget (OMB) publishes the Unified Agenda of Federal Regulatory and Deregulatory Actions (Agenda) in the Federal Register each April and October. The Agenda can be viewed on-line by going to <http://reginfo.gov/>. This document contains a brief description of and schedule for each new rule that each agency is likely to issue in proposed or final form within the next twelve months. It also lists each existing regulation that each agency is likely to review during that same period. By reading the Agenda, persons can learn whether any of the new rules being developed by the agencies are classified as significant under Executive Order 12866, Regulatory Planning and Review, and thus subject to review by OMB. (See below the section on Inter-agency and Inter-governmental Participation and the section on Other Rulemaking Requirements for fuller discussions of the Executive Order. The definition of

“significant regulatory actions” appears in a footnote to the former section.) Persons wishing to find out more about a particular rulemaking may contact the individual listed in the Agenda for that rulemaking.

After the publication of a Final Rule in the Federal Register, the rule is codified, along with all existing regulations, in the Code of Federal Regulations (CFR). The CFR is divided into 50 titles which represent broad areas subject to Federal regulation. Each title is further divided into chapters, which usually bear the name of the issuing agency. The CFR is updated annually. It is available free of charge on the Internet at <http://www.access.gpo.gov/nara/#cfr>.

The documents that an agency relies upon or considers in issuing a Final Rule are placed by the agency in a public docket where they are available for public inspection and comment. Each docket is identified by a docket number. These documents include studies generated by the agency to support its position as well as comments submitted in response to the agencies documents (except documents that have been submitted confidentially). <sup>3/</sup> While some agencies accept and rely upon confidential information in their rulemakings, others do not.

Federal agencies make extensive use of the Internet to provide information related to their regulatory activities and enhance the transparency of their regulatory process. Many agencies either have established or in the process of establishing an electronic docket system. For example, the Department of Transportation has established a system that permits a person anywhere in the world to view and download documents that have been submitted to any of their rulemaking dockets (<http://dms.dot.gov/>). The Department of Transportation system also permits people to file comments electronically. Some agencies, like the Environmental Protection Agency, provide links to electronic versions of all of their recently issued rulemaking documents (see <http://www.epa.gov/epahome/rules.html#proposed>). In addition, agencies are posting a wide variety of information relating to their rulemakings, such as research reports and analyses so that they can be examined online and downloaded without charge (see, e.g. <http://www.nhtsa.dot.gov/>).

Federal agencies are required by the Freedom of Information Act (FOIA) (5 U.S.C. § 552) to make records in their possession available upon receipt of a request that reasonably describes the records desired by the requestor. The purpose of this Act is to expand the areas of public access to information beyond those originally set forth in the APA. The Act gives any person the right to request records from agencies. Upon receipt of a request, an agency must search for records responsive to the request. The agency must then make available copies of all responsive records

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<sup>3/</sup> “Trade secrets and confidential business information” mean records or data submitted to the government that arguably contains material exempt from release under exemption 4 of the Freedom of Information Act, 5 U.S.C. § 552(b)(4), because disclosure could reasonably be expected to cause substantial competitive harm to the entity submitting the information. Persons submitting documents confidentially must assert their claim to confidential treatment at the time the documents are submitted. The agency then makes a determination as to whether exemption 4 applies. This exemption applies during all stages of the rulemaking process. As noted above, not all agencies accept documents containing trade secrets or confidential business information in their rulemakings.

located in the search, unless the records are protected from disclosure under one of nine statutory exemptions in the FOIA. <sup>4/</sup> Public access to government information was broadened in 1996 by the enactment of the Electronic Freedom of Information Act Amendments (E-FOIA).

The E-FOIA requires agencies to make more material available electronically. In addition, the FOIA was supplemented by Executive Order 12600, Predisclosure Notification Procedures for Confidential Commercial Information (1987), which gives private parties, especially business firms (including foreign firms), a right to prior notice before an agency releases information about or received from the firm.

### 3. Inter-agency and Inter-governmental Coordination

Federal agencies have various means for monitoring and coordinating with each other's regulatory activities. Agencies often directly consult on their own initiative with each other, formally and informally, on rulemaking issues of mutual interest, regardless of whether they are significant under Executive Order 12866. Typically, the consultation occurs initially on a working level among technical staff and later, as the agency's development of approaches to addressing the issues progresses, on a policy level as well. There are also inter-agency working groups, such as the Interagency Council on Standards Policy, that meet on an ongoing basis to discuss issues of mutual interest and to share information on their agency's activities.

Executive Order 12866 provides that each regulatory agency should avoid issuing rules that are inconsistent, incompatible, or duplicative with those of other Federal agencies. OMB is charged, under the Order, with coordinating inter-agency review of significant proposed or final rules prior to their issuance and publication in the Federal Register. <sup>5/</sup> If the proposed or final rule of one agency would create a serious inconsistency, or otherwise interfere with an action taken or planned by another agency, that rule is treated as a significant rule under the Order, and thus is subject to OMB review. OMB provides a copy of the rule to other interested agencies for comment during the review process.

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<sup>4/</sup> In addition to the exemption noted above for trade secrets and confidential business information, exemptions are also provided for other matters such as inter-agency or intra-agency memorandums or letters, and records or information compiled for law enforcement purposes. (5 U.S.C. § 552(b)(5) and (7)).

<sup>5/</sup> Section 3(f) of the Executive Order defines "significant regulatory action" as "any regulatory action" that is likely to result in a rule that may have any of certain enumerated impacts, including having an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; creating a serious inconsistency or otherwise interfere with an action taken or planned by another agency; and raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

#### 4. The Administrative Procedure Act

The primary mechanism for ensuring transparent and open rulemaking in the U.S. is a standardized system of consultations with the public as rules are developed and revised. The APA specifies requirements for rulemaking, i.e., the process by which Federal agencies formulate, propose, establish, amend, or repeal a regulation. Substantive rules issued by an agency under the APA have the force and effect of law.

If an agency's enabling legislation authorizes it to conduct rulemaking, the legislation typically specifies that either formal or informal procedures are to be followed:

- Informal rulemaking procedures require, with certain limited exceptions, that the agency provide prior notice and an opportunity to comment by submitting written data or arguments in response to the publication of a proposed rule. Any person, regardless of geographical location, may submit comments. This includes, for example, individuals, businesses and government agencies of other countries. These procedures require also that the data and arguments be considered by the agency and that, in issuing any Final Rules, the agency include a statement of the rule's basis and purpose and address the comments. A fuller discussion of informal rulemaking procedures is provided later in the text.
- Formal rulemaking procedures require an agency to conduct a complete oral, evidentiary hearing. The agency must offer persons who wish to participate an opportunity to appear and present oral and documentary evidence and views and to cross-examine other participants in the hearing. The hearings are generally presided over by an Administrative Law Judge. The record consists of the transcripts of the testimony and exhibits presented at the hearing, together with all documents filed in the proceeding.

Informal rulemaking procedures are required for most rulemakings, including most rulemaking involving the establishment of product requirements. Formal rulemaking has been, and continues to be, the exception. An agency must use formal rulemaking procedures if it is rulemaking under a statute requiring that rulemaking be conducted "on the record."

Some statutes require the use of "hybrid" rulemaking procedures, in which informal written comments are supplemented with oral presentations of some kind. In addition, agencies subject to informal rulemaking procedures may, at their discretion, decide to use "hybrid" procedures. For example, they may decide to hold public meetings when they believe that it would be beneficial to have a face-to-face exchange of views and information between the agency and the public. As with formal rulemaking, hybrid rulemaking represents a very small portion of rulemaking government-wide.

Agencies can add to, but never subtract from, procedures required by the APA or other statutes. As mentioned earlier, agencies engaged in informal rulemaking sometimes voluntarily decide to hold public meetings. The additional procedures used by an agency must not violate the procedural requirements in the APA or other statutes, such as the rules concerning consideration of written comments during a rulemaking.

Informal rulemaking proceedings proceed in the manner set forth below. Not all steps, e.g., preliminary notices, must be used in all rulemakings. The vast majority of rulemakings involve only three steps: issuance of a notice of proposed rulemaking soliciting public comment, agency consideration of all relevant information including public comments, and the issuance of a Final Rule after consideration of the relevant information. Since a greater range of steps is particularly likely to be used in some of the more significant rulemakings, the full potential range of steps is outlined below. It should be noted that the duration of rulemaking can vary from a few months to several years depending on the complexity, controversiality and nature of the action.

a. Preliminary Notices

Although the APA does not require or even address the issue of preliminary notices, they are issued by some regulatory agencies. An agency contemplating rulemaking may decide that it wants to obtain additional information before developing and publishing a specific proposal for addressing a problem. In such cases, to obtain more information about the nature and extent of a possible problem or to obtain public views on which regulatory approach would be most effective and desirable, the agency may publish a preliminary notice seeking public comments.

The most common type of preliminary notice is the Advance Notice of Proposed Rulemaking (ANPRM). It provides an opportunity for public comment very early in the rulemaking process. It describes the general area that may be the subject of a proposed rule and usually asks for public comment on the issues and regulatory options being considered. It invites the public to identify any additional relevant issues.

The ANPRM specifies a certain period of time within which the public may submit comments. Comments may be submitted by any person. Some agencies place all comments on the ANPRM in a docket where they are available to the public, while others docket only those comments that support a subsequent Notice of Proposed Rulemaking. In both cases, trade secrets and confidential business information are not revealed. The comment period is usually 60 days, but it can be longer or shorter, depending on the circumstances.

b. Notice of Proposed Rulemaking

In most cases, the initial step in the rulemaking process is to develop and then publish a proposed rule. The proposal is called a Notice of Proposed Rulemaking (NPRM). The purpose of the NPRM is to inform the public about the proposal and request public comment on it. The NPRM typically consists of two parts: a preamble, which is a narrative discussion, and proposed regulatory text. Some, however, do not include regulatory text. The amount of detail in preambles varies. The more detailed preambles identify the problem addressed by the proposal, discuss and analyze information regarding the existence, nature and extent of the problem, explain how the proposal will ameliorate that problem, and analyze the benefits and costs of the proposal. If the NPRM was preceded by the issuance of a preliminary notice, the NPRM may summarize and respond to the public comments on the preliminary notice. To the extent that the NPRM does not set forth and explain the factual assumptions, analyses and methodologies underlying the proposal, the agency places documents containing those matters in a public docket so that the public has an opportunity to comment on them.

The NPRM specifies a certain period of time within which any person who wishes to do so may submit comments. Executive Order 12866 recommends a comment period of 60 days, although the period can be longer or shorter, depending on circumstances. The agency places all comments in a public docket, except that trade secrets and confidential business information are not revealed. This public comment process serves a number of purposes, including giving persons the opportunity to:

- provide the agency with information that will enhance the agency's knowledge about matters related to the proposal; and
- challenge the factual assumptions, analyses, and tentative conclusions underlying the agency's proposal and show in what respect they are in error.

If, after the comment period, the agency obtains new information or analysis that is not simply cumulative and has a potentially significant bearing on the substance of the Final Rule, the agency must make it available so that the public may comment. If the agency has an established practice of considering late comments and other new material and will consider any late comments on the new information or analysis, it may not need to re-open the comment period on the NPRM. If, in addition to being non-cumulative, the new information or analysis will lead to significant and unexpected changes in the final rule, the agency must publish a notice in the Federal Register to ensure public awareness that the material has become available.

In response to the comments on the NPRM or developments (e.g., new research results) after the NPRM is issued, the agency generally changes certain aspects of the proposal. In most cases, the changes are within the range of regulatory approaches discussed in the NPRM, and no further opportunity for public comment is required. However, if any of the changes desired by the agency involve matters neither discussed in the NPRM nor a logical outgrowth of those matters, the agency must give the public a chance to comment on a revised proposal before issuing a Final Rule. To provide that chance, the agency issues a Supplemental Notice of Proposed Rulemaking.

#### c. Supplemental Notice of Proposed Rulemaking

The SNPRM identifies significant changes to the proposed rule that could not have been not reasonably anticipated from reading the NPRM. It also may identify significant new factual information that was not included in the record of the rulemaking at the NPRM stage, and that the agency wishes to rely upon in the Final Rule. The SNPRM explains the reasons for the changed regulatory language and seeks public comment on it. SNPRMs are issued significantly less frequently than ANPRMs.

#### d. Final Rule

After considering the comments received during the rulemaking, the agency decides whether to issue a Final Rule. Final Rules include a preamble and regulatory text. If the agency issues a Final Rule, the preamble includes a detailed statement of the basis and purpose of the rule, explains why the agency agrees or disagrees with the substantive comments it received and describes the changes, if any, it made to the rule in response to the comments with which it agrees. If the agency allows petitions for reconsideration, it must state that petitions for

reconsideration may be submitted and may specify a deadline for doing so. The Final Rule also specifies a date on which the rule will become effective. An interval (known as lead time) between the final rule and the effective date of 1 to 3 years is not unusual, particularly in the case of significant rules or rules governing new technologies or products. If the agency decides not to issue a Final Rule, it may issue a Notice of Withdrawal of the proposal, explaining the reasons for that action.

Normally, the APA requires that a Final Rule be published at least 30 days before it takes effect. However, compliance with the 30-day requirement is not necessary if the rule makes an exemption or relaxes existing requirements, or if the agency makes and publishes a finding that an earlier effective date is required “for good cause.”

#### e. Response to Petitions for Reconsideration

Even after a Final Rule is issued, the public may have a final chance to request the agency to make changes to the rule. Any person can do this by submitting a Petition for Reconsideration. The submission of a Petition for Reconsideration generally does not delay the effective date of the rule.

Some agencies respond to Petitions for Reconsideration by making changes to the Final Rule without first soliciting public comment, if those changes are either within the scope of the NPRM or are a reasonable outgrowth of the NPRM. Other agencies may issue a new NPRM before making any changes in response to Petitions for Reconsideration, regardless of whether the changes are within the scope of the NPRM.

The requirement for prior notice and an opportunity for public comment may be waived in cases in which the agency finds “good cause” that such procedures would be “impracticable, unnecessary, or contrary to the public interest.” (5 U.S.C. § 553(b)(3)(B)). Courts have interpreted this language to allow an agency to waive the notice and comment procedures and issue rules when the agency can show it is confronting one or more of the following “emergency” situations: (1) where the agency was subject to a short, statutorily-imposed deadline; (2) where an immediate rule is required to address a serious risk to public health and safety; (3) where advance notice would thwart the purpose of the rule; or (4) where immediate clarification of existing rules and regulations is needed to alleviate confusion. It is important to note that the “good cause” exception is construed narrowly. Further, agencies may not automatically waive informal rulemaking procedures whenever one of these four situations arises or in the agency’s judgment an emergency situation exists. Instead, an agency must clearly demonstrate that the waiver is proper in a particular circumstance.

#### 5. Other Opportunities for Public Participation

Private citizens, industry, and organizations can participate in an agency’s rulemaking activities in a variety of ways. In addition to submitting comments and petitions as discussed above in the section on the APA, persons can directly contact the agencies in accordance with the agencies’ own particular procedural requirements, participate in advisory committees formed by the agencies, or participate in negotiated rulemakings.

While the APA limits ex parte oral communications in formal rulemakings, it does not do so in informal rulemakings. <sup>6/</sup> However, the various Federal agencies have adopted their own policies about such communications during informal rulemakings. These policies vary. Some agencies discourage, but do not prohibit, ex parte oral communication during all stages of a rulemaking proceeding, even before an NPRM is issued. Other agencies discourage ex parte oral communications only after an NPRM has been issued. Still others permit them at any time during a rulemaking proceeding. In all cases, however, to the extent that an agency wishes to rely in its Final Rule on information or data received in ex parte oral communications, it must document the substance of the communications in a memorandum that is made publicly available. Such documentation is necessary to ensure that the public and the courts (in the event of a lawsuit) are aware of the communications.

Federal agencies may meet with committees or groups of persons to augment the opportunity for dialogue and public input in their rulemakings. Some of these committees or groups may be advisory committees within the meaning of the Federal Advisory Committee Act, 5 U.S.C. App. 2 (FACA). Under the Act, an advisory committee is any committee or group containing at least one member who is not a full-time Federal employee, that is established or utilized (i.e., managed or controlled) by a Federal agency, in the interest of obtaining advice or recommendations. Advisory committees may be established under the FACA after public notice is given and a determination is made that the formation is in the public interest. The committees must be chartered by the General Accounting Office and have a clearly defined purpose. Membership must be fairly balanced in terms of the points of view represented and functions performed. Meetings of the advisory committees must be announced in the Federal Register and generally open to the public. Minutes of the meetings and all related documents must be made public.

The Negotiated Rulemaking Act of 1990 (NRA) establishes a framework for conducting a negotiated rulemaking and encourages agencies to use negotiated rulemaking to enhance the informal rulemaking process. 5 U.S.C. §§ 561, *et seq.* The premise underlying negotiated rulemaking is that bringing together representatives of an agency and the various affected interest groups to negotiate, and reach consensus on, a proposed rule will lessen the likelihood of litigation when a Final Rule is issued. Under the NRA, an agency forms an advisory committee consisting of representatives of the affected interests and representatives of the agency for the purpose of reaching consensus on a rule to be issued in a notice of proposed rulemaking. The committee is subject to the FACA, and thus generally must hold its meetings in public. The negotiations within the committee are generally assisted by a neutral facilitator. The goal of the committee is to reach consensus within the limits of the agency's legal authority and policy objectives for the rulemaking. If consensus is reached, the agency uses the product of the consensus as the basis of its Notice of Proposed Rulemaking. As in the case of rulemaking proceedings that do not involve negotiated rulemaking, the agency must consider the public comments on that notice before issuing a Final Rule.

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<sup>6/</sup> "Ex parte communication" is defined in the APA as meaning "an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but it shall not include requests for status reports on any matter or proceeding..." (5 U.S.C. § 551(14)).

## 6. Other Rulemaking Requirements

In addition to the requirements in their enabling legislation, regulatory agencies are subject to other statutory requirements for analyzing various impacts of their proposed and final rules. Among these are requirements to analyze the impacts of any rule on small business (the Regulatory Flexibility Act) or the environment (the National Environmental Policy Act). If the rule will require subfederal governments or the private sector to spend more than \$100 million in any one year, its impacts must be analyzed (the Unfunded Mandates Act). Further, the impact of the information collection requirements in any rule must be analyzed (the Paperwork Reduction Act). These analyses, like the other required analyses, must be made public.

In addition, other requirements are established by the Executive Branch through the issuance of Executive Orders. The most significant of them is Executive Order 12866. The Order, which was issued on 30 September 1993, sets out an overarching regulatory philosophy and principles to guide agencies in developing effective and efficient rules. It provides that agencies should, to the extent permitted by law, assess both costs and benefits (quantitative and qualitative) of an intended rule and propose or adopt a rule only upon making a reasoned determination that the benefits of the intended rule justify its costs.<sup>7/</sup> The Order states that, in choosing among alternative regulatory approaches, agencies should select those approaches that maximize benefits. One of the principal objectives of the Order is to make regulatory processes more accessible and open to the public. The Order requires that before regulatory agencies issue proposed and final “significant” rules, they submit them to OMB for review. Significant rules must be accompanied by an extensive regulatory impact analysis. The analysis is placed in the public docket to facilitate public comment on it. The Order can be found at <http://reginfo.gov/eo12866.htm>.

The National Technology Transfer and Advancement Act (NTTAA) of 1995 directs Federal agencies to use voluntary consensus standards, both domestic and international, in lieu of government-developed regulations, as a means to carry out policy objectives or activities determined by the agencies, except when doing so would be inconsistent with law or otherwise impractical. (Public Law 104-113) (15 U.S.C. § 272 note). The Act further directs the agencies to participate in voluntary consensus standards development activities “when such participation is in the public interest and is compatible with agency and departmental missions, authorities, priorities, and budget resources.” Such participation is aimed at contributing to the development of voluntary standards that will minimize the need to develop and maintain separate government regulations.

Federal agencies are also required, in developing their regulations, to take into consideration relevant international standards and, if appropriate, base their regulations on those international standards. Title IV of the Trade Agreements Act of 1979 (Public Law 96-39), as amended in 1994 (Public Law 103-465) and 1996 (Public Law 104-295) (19 U.S.C. § 2532(2)). The Act expressly provides that the reasons for which it may not be appropriate to base a regulation on an

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<sup>7/</sup> Some statutes authorizing the issuance of product regulations limit the extent to which the issuing agency can consider cost in selecting those regulations. Some even provide that the regulations are to be selected and issued without regard to cost.

international standard include, but are not limited to, the protection of human health or safety, animal or plant life or health, or the environment.

### C. CONGRESSIONAL REVIEW

Most product regulations issued by agencies as Final Rules must be submitted to Congress for review under the Congressional Review Act, 5 U.S.C. §§ 801, *et seq.* (CRA) and to Congressional oversight. <sup>8/</sup> The CRA establishes a special procedure through which Congress may vote to disapprove any such agency rule. The effect of a disapproving vote is to nullify the rule. A rule is rejected if both houses of Congress adopt a joint resolution by majority vote and if the President then signs the resolution. A rule is also rejected if both houses of Congress adopt such a resolution and then override a Presidential veto of the resolution. While Congress can adopt a resolution rejecting a rule in its entirety, Congress cannot adopt a resolution under the CRA either amending a rule or directing that a rule be amended. When acting under the CRA, Congress can either take no action or adopt a disapproving resolution.

When acting outside the CRA, i.e., under its normal legislative procedures, Congress may, in effect, nullify an agency's rule by enacting new legislation that prohibits the agency from using appropriated funds to enforce the rule. Alternatively, Congress may enact legislation identifying the regulatory provisions to which it objects and specifying that the agency cannot maintain an existing rule, or issue a new rule, containing those provisions.

### D. JUDICIAL REVIEW

All Final Rules establishing, amending or revoking regulations may be judicially reviewed pursuant to either an agency's enabling legislation, the APA or particular agency-specific statutes. In addition, other final actions are judicially reviewable, including denials of petitions for rulemaking, denials of petitions for reconsideration, and decisions to terminate rulemaking after the issuance of an NPRM. Although the percentage of rules issued through informal rulemaking and then judicially reviewed may be relatively small, there is a steady and significant number of cases involving procedural and/or substantive challenges. Further, given the precedential effect of court decisions, judicial review can have a significant and long-lasting effect on agency rulemaking.

Under the APA, any person may seek to have a Final Rule or other final agency action overturned in the Federal courts if he has "standing" to do so. To have standing, a person must first show that the final agency action actually injured him and that it is likely that the injury will be redressed by a favourable decision by the court.

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<sup>8/</sup> In the case of a "major rule", the CRA provides that such a rule may not take effect sooner than the end of the 60-day period following the submission of the rule to Congress. A "major" rule is defined for the purposes of the CRA as a rule that OMB finds will result in any of the following: (a) an annual effect on the economy of \$100 million or more; (b) a major increase in costs or prices; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

The person must then demonstrate that his injury is within the “zone of interests” which Congress sought to protect in enacting the statute under which the final agency action was taken. Generally, any person directly subject to a product regulation or any person who purchases or uses the products subject to the regulation can demonstrate that his injury is within the zone of interests protected by the statute under which the regulation was issued. An organization which has not itself suffered such an injury may nevertheless have standing if it can demonstrate that its members would otherwise have standing on their own to sue, the interests it seeks to protect are germane to the organization’s purpose and neither the claim asserted nor the relief sought requires the participation of individual members in the suit.

Under the APA, a person may seek to have a final agency action overturned on a variety of grounds, including the ground that the action is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. Suits challenging agency rules typically allege both procedural and substantive grounds for overturning those rules. Among the procedural grounds are lack of adequate notice. Persons alleging lack of adequate notice often argue that the difference between the proposed and final regulatory text was so great that commenters could not reasonably have anticipated, and thus could not comment on, some important part of the Final Rule. Another common argument is that, in order to support the Final Rule, the agency relied on data or analysis that was not made known to commenters in time for them to offer comments before the Final Rule.

To avoid having a rule overturned or remanded as arbitrary or capricious, an agency should: state the factual predicates for its rule; support the factual predicates by linking them to evidence in the rulemaking record; explain how it reasoned from factual predicates to the expected effects of the rule; relate factual predicates and expected effects to each of the relevant statutory goals, purposes or criteria that is made relevant by its statute; avoid basing any aspect of its Final Rule on factors which Congress did not intend to be considered; explain its reasons for agreeing or disagreeing with major comments and for resolving issues raised by commenters as it did; and give reasons for rejecting plausible alternatives to the rule it adopted, especially those that arguably would better promote the goals of the statute under which the rule was issued.

A reviewing court generally will not substitute its judgment for that of the agency or overturn factual conclusions as long as the agency’s conclusions have a substantial basis in the administrative record. (See discussion of administrative records below.) This is particularly true when the subject matter is technical, concerns a newly developing technology, or involves exercise of the agency’s expertise.

A Final Rule revoking a regulation is subject to the same degree of judicial scrutiny as a Final Rule establishing or amending a regulation. There is a presumption that a settled course of agency behaviour represents that agency’s informed judgment that, by pursuing that course, it will carry out the policies committed to it by Congress. Thus, if the agency departed from past agency practices or positions in adopting a new rule, the agency must explain in some detail why it did so.

The court’s review is based on the administrative record. The administrative record is compiled by the agency and consists of the Final Rule, and all the information the agency had before it at the time of its issuance of the Final Rule, including the NPRM, all comments on the NPRM, and research results and reports.

If the court overturns a Final Rule, it will return the rule to the agency for further consideration. The court may either vacate the rule, in which case, it has no legal effect; or the court may simply remand the rule, requiring the agency to reconsider its position, but leaving all or part of the rule in effect during that period of reconsideration.

### **III. U.S. Process for Assuring Compliance with Safety and Emission Standards**

In the United States, the Federal government maintains a set of objective (e.g., numerical), practicable safety and environmental requirements that all vehicles, equipment and parts must meet. These requirements are embodied in the Federal motor vehicle safety standards (FMVSS) and the Federal emission standards. The standards are stated in performance terms. Compliance with the standards can normally be achieved using a variety of different designs, which leaves manufacturers with a great deal of flexibility in designing their vehicles, equipment and parts.

The following discussion outlines the Federal Government's compliance and enforcement system as it relates to safety and environmental requirements for wheeled vehicles, equipment and parts.

#### **A. NHTSA AND SELF-CERTIFICATION**

The National Highway Traffic Safety Administration (NHTSA) is authorized to issue FMVSSs that specify performance requirements for new motor vehicles and items of motor vehicle equipment. U.S. Federal law prohibits any person from manufacturing, introducing into interstate commerce, selling, or importing any new motor vehicle or item of motor vehicle equipment unless the vehicle or equipment item conforms to all applicable safety standards.

Unlike agencies that enforce standards through a type approval system, NHTSA does not approve motor vehicles or motor vehicle equipment items, nor does the agency endorse any commercial products or their vendors. Manufacturers are required by statute to self-certify that their products conform to NHTSA's safety standards before they can be offered for sale. <sup>9/</sup> Evidence of that certification must be displayed in the form of a label as required by 49 CFR Parts 567 and 568 which specify the label's size, location and text. A motor vehicle manufacturer must also submit certain identifying information to NHTSA pursuant to 49 CFR Part 566 not later than 30 days after it begins to manufacture vehicles.

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<sup>9/</sup> The motor vehicle safety statutes, found in Chapter 301 of Title 49, U.S. Code, establish a self-certification process under which each manufacturer must certify that its products meet all applicable safety standards. (See 49 U.S.C. § 30115; 49 CFR Parts 567, 568) The FMVSSs are contained in 49 CFR Part 571. In addition to the FMVSSs, certain vehicles must be certified as complying with the Bumper Standard at 49 CFR Part 581, and the Theft Prevention Standard at 49 CFR Part 541.

## 1. How Manufacturers Self-Certify

Each of the safety standards specifies the test conditions and procedures that NHTSA will use to evaluate whether a vehicle or equipment item conforms to the standard's performance requirements. Dynamic tests are prescribed in some of the standards, such as FMVSS No. 208, "Occupant Crash Protection", and FMVSS No. 301, "Fuel System Integrity", and the agency may conduct performance testing in accordance with those tests to determine whether compliance exists. However, the agency does not require a manufacturer to crash test vehicles or to evaluate its products only in the manner specified in the safety standards. A manufacturer may choose any means of evaluating a vehicle or equipment item to determine whether it complies with the requirements of an applicable standard, provided that the manufacturer chooses a means that provides reasonable assurance that the vehicle or equipment item will comply with the standard when tested by NHTSA. Most manufacturers certify compliance through testing in accordance with the FMVSS. On rare occasions, certification is based on studies or analyses, rather than testing.

In addition to the initial certification, a manufacturer is also expected to monitor continued compliance of vehicles and/or items of motor vehicle equipment throughout the entire production run. To accomplish this, an effective quality control programme should be established to periodically inspect and test vehicles and/or items of motor vehicle equipment to ensure that the original, certified performance is achieved by all other units.

Unlike a type approval system, NHTSA's self-certification system provides manufacturers with greater flexibility to make and introduce changes in their products.

## 2. How NHTSA Ensures/Monitors Compliance

NHTSA conducts compliance testing to monitor compliance. NHTSA's annual compliance programme tests an average of 30 of the 44 testable FMVSSs (30 vehicle standards and 14 equipment standards). The government randomly selects (purchases) vehicles and items of equipment from the marketplace and tests them to determine if they comply with the safety standards. If NHTSA's compliance test were to show an apparent non-compliance of a vehicle or equipment item with an applicable standard, the agency would notify the manufacturer promptly. Often, the manufacturer will then promptly conduct a recall, a procedure in which the manufacturer notifies owners of the non-compliance and provides them with a free remedy. If the manufacturer does not do this, the government will initiate an investigation to determine whether the manufacturer failed to comply with the standard. At the conclusion of the investigation, the government can order the manufacturer to recall all the non-complying vehicles and items of equipment. In addition, the agency can seek civil penalties for violations of 49 U.S.C. § 30112(a), which provides that a person may not manufacture for sale, sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States, any motor vehicle or

motor vehicle equipment manufactured on or after the date an applicable motor vehicle safety standard takes effect, unless the vehicle or equipment complies with the standard and is covered by a certification issued under 49 U.S.C. § 30115. 10/

Safety defects that do not result in non-compliance with a FMVSS can also result in a recall. NHTSA typically opens defect investigations on the basis of consumer complaints called into NHTSA's Hotline, or received from other sources. In addition, members of the public can submit petitions seeking a defect investigation.

While a recall can be a significant and costly step for a manufacturer, its purpose is to eliminate the safety risk posed by non-compliant or defective vehicles or equipment. A recall requires the manufacturer to notify all purchasers, urging them to bring their vehicles or items of equipment into their dealer to have the non-compliance or defect remedied at no cost to the purchaser. The manufacturer has the option to repair or replace the vehicle or item of equipment, or refund the purchase price. Most decisions to recall are made by a manufacturer prior to a formal decision by NHTSA that a safety defect or a non-compliance exists, without a formal order from the agency. If a manufacturer refuses to comply with a NHTSA recall order, the government may seek to enforce the order in Federal court.

## B. EPA ENFORCEMENT AND COMPLIANCE PROVISIONS

EPA's procedures for enforcing emission standards are similar in many ways to NHTSA's provisions; nevertheless, there are some significant differences. While EPA also requires certification of vehicles, equipment and parts (engines, in particular), its statutes do not allow self-certification. Instead, manufacturers must apply for certification from EPA. Manufacturer applications must contain specified information, including emissions testing information, needed for EPA to determine whether the vehicle, equipment or part meets the emission standards. EPA may perform confirmatory testing, or require that the manufacturer perform such testing. If EPA determines that the vehicle, equipment or part meets its standards and other requirements, EPA issues a certificate of conformity. As with safety standards, manufacturers must affix a permanent certification label on all production models of certified vehicles, equipment and engines.

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10/ Section 30112 (b)(2)(A) provides that a non-compliant vehicle or item of equipment is not a violation of law if the manufacturer used "reasonable care." NHTSA has long said that it is unable to judge what efforts would constitute "reasonable care" in advance of the actual circumstances in which a non-compliance occurs. What constitutes "reasonable care" in a particular case depends on many factors including the limitations of current technology, the availability of test equipment, the size of the manufacturer, and above all, the diligence exercised by the manufacturer. It is important to note that, while the exercise of "reasonable care" may relieve a manufacturer of liability for civil penalties in connection with the manufacture and sale of non-complying vehicles or equipment, it does not relieve the manufacturer of the responsibility to provide purchasers of the non-complying vehicles or equipment with notification of the non-compliance, and to remedy the non-compliance without charge. Similarly, Section 30115 provides that a person may not certify a vehicle as complying with all applicable safety standards "if, in exercising reasonable care, the person had reason to know the certificate is false or misleading in a material respect."

Manufacturers may not sell or otherwise introduce into commerce any regulated vehicle, equipment or part without a certificate of conformity. If a manufacturer violates this provision (e.g., by introducing into commerce vehicles that are materially different from vehicles described in the applications for certification), the manufacturer can be subject to substantial monetary penalties.

EPA also selectively tests, or requires that manufacturers test, vehicles, equipment or parts after they are manufactured and assembled. If a set of vehicles, equipment or parts does not meet EPA emission standards, EPA may order a recall. EPA's recalls are similar to NHTSA's recalls. Manufacturers may challenge a recall order in an agency administrative proceeding or, if unsuccessful within the agency, in court. In addition, if EPA determines that assembly line vehicles, engines or parts are materially different from their certified configurations, EPA may assess monetary penalties for introducing uncertified configurations into commerce.

Similarly, since the emission standards apply for the useful life of a vehicle or engine, EPA tests vehicles and engines after they have been placed into operation for a substantial period of time to ensure that they continue to meet the emission standards. EPA's authority for recall and monetary penalties under its in-use testing provisions is similar to its authority under the assembly line testing provisions discussed above.

#### **IV. Glossary of Acronyms**

ANPRM	Advance Notice of Proposed Rulemaking
APA	Administrative Procedures Act
CFR	Code of Federal Regulations
CRA	Congressional Review Act
FACA	Federal Advisory Committee Act
FOIA	Freedom of Information Act
FR	Federal Register
NIST	National Institute of Standards and Technology
NPRM	Notice of Proposed Rulemaking
NRA	Negotiated Rulemaking Act
NTTAA	National Technology Transfer and Advancement Act
OMB	Office of Management and Budget
RISC	Regulatory Information Service Center
SNPRM	Supplemental Notice of Proposed Rulemaking
USC	United States Code

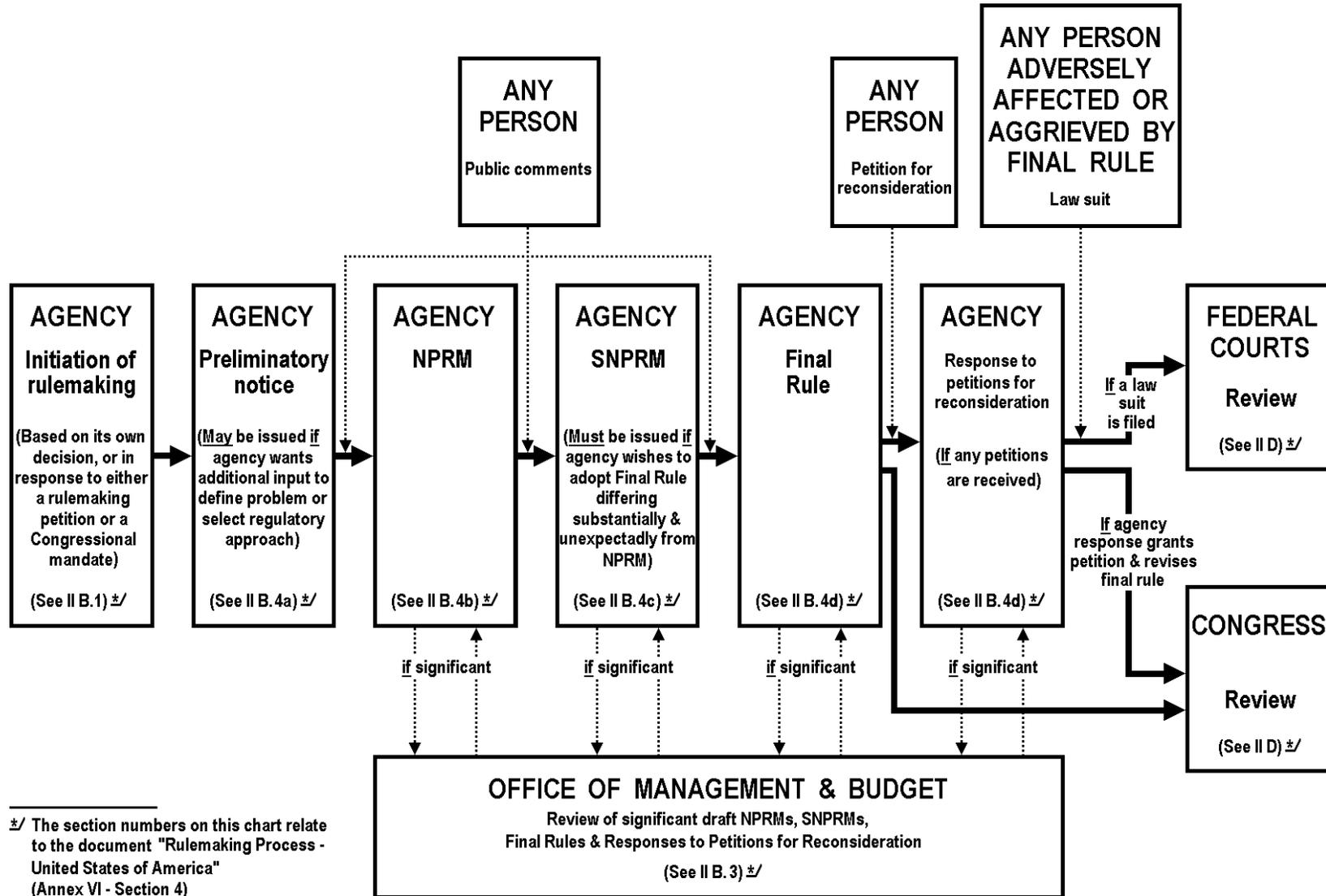
## V. For Further Information, Contact

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RULEMAKING PROCESS - UNITED STATES OF AMERICA

- 120 -



## Section 5

### **REGULATORY PROCESS – CANADA**

This is a summary list of the steps involved in the introduction of a motor vehicle safety or emission regulation, or an amendment to such a regulation in Canada.

#### Initiation

The need for a regulatory initiative can result from:

- a hazard identified by research
- a hazard identified by collision investigation
- a hazard identified by public complaints
- an industry request
- a regulation becoming an impediment to new technology
- the need to maintain regulatory harmony with provincial or foreign government requirements
- the need to facilitate the enforcement of a requirement

#### Testing

Regulatory development testing may be conducted at this or a later stage to determine the feasibility of a technical requirement.

#### Steering Committee

A steering committee coordinates development activities and draws on staff members' knowledge as required. Representatives of industry or other relevant bodies, as necessary, may serve on this committee.

#### Drafting

The proposed regulation, the Regulatory Impact Analysis Statement (RIAS) (a document which summarises the regulation and all the factors relevant to it), and other documents such as method of test are drafted with the advice of legal staff.

### Publication of Proposal

The proposed regulation and the associated RIAS are published in the Canada Gazette (the document in which the official version of Orders, Regulations and Acts are published). Comments from interested parties such as industry, other governments and safety advocates are invited by this publication.

### Comments

All comments received are analysed and the proposal is amended, if necessary.

### Publication of the Final Regulation

The regulation in its final form and the associated RIAS, which describes the comments received and the action taken to address them, are published in the Canada Gazette.

### Lead Time

If necessary, time is allowed prior to the regulation becoming effective in order to permit manufacturers to make the changes necessary to comply with its requirements.

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