

Proposal for clarification of Article 12 of draft Revision 3 of the 1958 Agreement as formulated in document ECE/TRANS/WP.29/2014/53

Introduction:

1. Article 12(2) of draft Revision 3 of the 1958 Agreement, dealing with amendments to existing regulations, indicates that a Contracting Party that has notified its intention to cease the application of a regulation shall accept approvals granted according the previous version of the regulation and not those based on the latest amendment. Article 12(5) however states that all Contracting Parties have to accept the approvals issued according the latest version. To prevent any difference in interpretation which subparagraph is overruling the other we believe that it is better to move the last sentence of article 12(2) as an exemption to the general rule of article 12(5).

2. We also believe that the acceptance of “older” approvals depends on the moment that a Contracting Party notifies its intention to cease the application and on the obligations given in the transitional provisions of the regulation. Where the transitional provisions permit the refusal of approvals issued according the previous version during the one year period the Contracting Party concerned should have the same rights as the other Contracting Parties and no obligation to accept the previous approvals. In general we believe that such a Contracting Party should have to respect his obligations and has the rights that were valid at the moment of its notification.

The Netherlands seeks guidance from WP.29 on the possibility to include amendments to the so called “frozen proposal for Revision 3 of the 1958 Agreement” and suggests to amend the text of draft Revision 3 (document ECE/TRANS/WP.29/2014/53) as indicated below.

Proposal:

(new text is given with underlined characters and deleted text is given ~~strikethrough~~; text in **red characters** is only relevant for this proposal)

Amend article 12, to read as follows:

“Article 12

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

1. Amendments to UN Regulations shall be established by the Administrative Committee as described in Article 1, paragraph 2 and in accordance with the procedure indicated in **the appendix**.

An amendment to the UN Regulation, after having been established, shall be communicated by the Administrative Committee to the **Executive Secretary of the United Nations Economic Commission for Europe**. As soon as possible thereafter, the **Executive Secretary of the United Nations Economic Commission for Europe** shall give notification of this amendment to the Contracting Parties applying the UN Regulation **and the Secretary-General**.

2. An amendment to a UN Regulation will be considered to be adopted unless, within a period of six months from its notification by the **Executive Secretary of the United Nations Economic Commission for Europe**, more than [one-third] of the Contracting Parties applying the UN Regulation at the time of notification have informed the Secretary-General of their disagreement with the amendment. **When an amendment to a UN Regulation is adopted**, the Secretary-General shall as soon as possible declare the amendment as adopted and binding upon those Contracting Parties applying the UN Regulation. **A Contracting Party which notified the Secretary-General of its intention to cease applying the UN**

~~Regulation as amended, shall, during the one year period mentioned in paragraph 6 of Article 1, accept approvals granted pursuant to the previous version of the UN Regulation, but shall, during the same period, not be obliged to accept approvals granted pursuant to the latest amendment of that UN Regulation.~~

3. Amendments to a UN Regulation may include transitional provisions relating to the entry into force of the amended UN Regulation, the date up to which Contracting Parties shall accept approvals pursuant to the preceding version of the UN Regulation and the date as from which Contracting Parties shall not be obliged to accept type approvals issued pursuant to the preceding version of the amended UN Regulation.

4. Notwithstanding that transitional provisions in any version of UN Regulations may have stipulated otherwise, Contracting Parties to this Agreement which are applying UN Regulations may, subject to compliance with the provisions of Article 2, nevertheless issue type approvals pursuant to earlier versions of UN Regulations. However, subject to paragraph 3 of this Article, Contracting Parties applying a UN Regulation shall not be obliged to accept type approvals issued pursuant to these earlier versions.

5. All Contracting Parties applying a UN Regulation, except for Contracting Parties which notified the Secretary-General of their intention to cease applying the UN Regulation, shall accept approvals granted pursuant to the latest version of that UN Regulation. A Contracting Party which notified the Secretary-General of its intention to cease applying the a UN Regulation as amended, shall, during the one year period mentioned in paragraph 6 of Article 1, accept approvals granted pursuant to the previous version(s) of the UN Regulation applicable for that Contracting Party at the moment of its notification, ~~but shall, during the same period, not be obliged to accept approvals granted pursuant to the latest amendment of that UN Regulation.~~

6. A Contracting Party applying a UN Regulation may grant an exemption approval pursuant to a UN Regulation for a single type of wheeled vehicle, equipment or part which is based on a new technology, when this new technology is not covered by the existing UN Regulation, and is incompatible with one or more requirements of this UN Regulation. In such a case, the procedures set out in Schedule 7 annexed to this Agreement shall apply.

7. Should a new Contracting Party accede to this Agreement between the time of the notification of the amendment to a UN Regulation by the **Executive Secretary of the United Nations Economic Commission for Europe** and its entry into force, the UN Regulation in question shall enter into force for that Contracting Party **unless, within a period of six month from its notification of accession by the Secretary-General, that Party has informed the Secretary-General of its disagreement with the amendment.**”