

Article 4 - draft amending proposal

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~~ **according to** 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 **ensure that the manufacturer** bring these products ~~of these manufacturers~~ into conformity with the approved types and **it** 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 the competent authorities of a Contracting Party applying a Regulation find that certain wheeled vehicles, equipment or parts bearing approval markings by one of the Contracting Parties applying the said Regulation ~~there might be a threat~~ **present a serious risk** to road safety or to the environment, **they shall notify the competent authorities of the Contracting Party which issued the approval and the other Contracting Parties applying the Regulation of this risk so that Contracting Parties applying the Regulation may take the necessary steps to ensure that the manufacturer takes adequate corrective action to eliminate this risk.** ~~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 **applying the Regulation may prohibit the sale and the use of withdraw** such wheeled vehicles, equipment or parts **and prohibit their sale and use of in ~~their~~ its territory.**

Where the competent authorities of a Contracting Party applying a Regulation find that certain wheeled vehicles, equipment or parts bearing approval markings by one of the Contracting Parties applying the said Regulation present a serious risk to road safety or to the environment, and provided it can be demonstrated that the current ECE Regulations covered by IWVTA are not equipped to address this threat adequately.

- 1) the CP concerned has to demonstrate that there is an urgent and serious threat for safety or the environment in its territory and that the Regulations covered by IWVTA are not equipped to address this risk.
- 2) this demonstration of evidence should be communicated by the CP concerned to other CPs and the UNECE secretariat, accompanied by a request to WP.29 for urgent action, identifying which of the UNECE Regulations in IWVTA should be urgently amended to address this threat.
- 3) In the mean time the CP concerned could take any precautionary action, subject to notification of the extent of this precautionary action to UNECE and other Contracting Parties, and subject to giving the OEMs concerned the right to be heard and to lodge an appeal in case they would consider the precautionary action not justified or proportionate.

- 4) Any such precautionary action should be subject to the procedures of Article 10 of the 58 Agreement in case there would be a dispute between the CP taking the precautionary action and other CPs considering this action is not necessary or not proportionate.
- 5) Ultimately, and as a last resort solution, a procedure could be envisaged in which the CP may refuse to accept ECE0 approvals. This would only be possible if no satisfactory amendment to the ECE Regulation(s) concerned would appear to be possible and subject to agreement between CPs applying the IWVTA ECE0 Regulation that this would be only way out. However as such a procedure would go against the objective of maximum harmonisation, the procedure should include additional guarantees to avoid that this procedure can be invoked too easily.

Justification:

1. On paragraph 2, the authority which can make a manufacturer to recall its products in a country is the authority of the country.
2. On paragraph 3, when the IWVTA will be applied in the future, it cannot be excluded that despite complying with the IWVTA requirements a vehicle type may give rise to a serious risk to the safety, public health, or the environment within the territory of a Contracting Party applying the ECE0 Regulation on IWVTA. It may be therefore appropriate to provide within the revised 1958 Agreement a safeguard or countermeasure clause to deal with these exceptional circumstances. This is already described in the document IWVTA-07-04. This paragraph is intended just show image for considering amendment of Article4 and actual wording should be carefully elaborated.