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**1958 Agreement – Proposal for guidelines on the scope,
administrative provisions and alternative requirements in
Regulations annexed to the 1958 Agreement**

Proposal for guidelines on the scope, administrative provisions and alternative requirements in Regulations annexed to the 1958 Agreement

Submitted by the European Union *

The text reproduced below was prepared by the European Union to amend ECE/TRANS/WP.29/2011/48/Rev.1 relating to guidelines on transitional provisions, scopes, administrative provisions and alternative requirements in UNECE Regulations. It is submitted to the World Forum for Harmonization of Vehicle Regulations (WP.29) and to the Administrative Committee (AC.1) for consideration.

* In accordance with the programme of work of the Inland Transport Committee for 2006–2010 (ECE/TRANS/166/Add.1, programme activity 02.4), the World Forum will develop, harmonize and update Regulations in order to enhance the performance of vehicles. The present document is submitted in conformity with that mandate.

A. Proposal

I. Introduction

1. These general guidelines are intended to provide guidance to the subsidiary bodies of the World Forum for Harmonization of Vehicle Regulations (WP.29) on the procedure of making and amending UNECE Regulations and on drafting their scope, administrative provisions, alternative requirements and cross-references. This document supersedes the current general guidelines for UNECE regulatory procedures and transitional provisions in UNECE Regulations (TRANS/WP.29/1044).

2. This proposal is for streamlining the future work in the subsidiary bodies and does not alter the current understanding and interpretation of the 1958 Agreement and the existing UNECE Regulations. If there is any inconsistency between these guidelines and the current text of the 1958 Agreement, the latter prevail.

II. Main principles of the 1958 Agreement for the drafting of scope, administrative provisions and alternative requirements in UNECE Regulations

3. Articles 1 and 3 of the 1958 Agreement lays down two main principles for UNECE Regulations:

- (a) **Mutual recognition:** A type-approval issued according to a UNECE Regulation by a Contracting Party applying that UNECE Regulation shall be accepted by and held to be in conformity with the legislation of all the Contracting Parties applying the said UNECE Regulation through type-approval.
- (b) **Application of UNECE Regulations is optional:** Contracting Parties are free to choose which UNECE Regulations they want to apply. Furthermore, even when they apply a UNECE Regulation, they have the right to keep their own national/regional type-approval legislation. They may substitute the requirements of their national/regional type-approval legislation by the requirements of UNECE Regulations they are applying, but they are not bound by the 1958 Agreement to do so. The only obligation for Contracting Parties applying a UNECE Regulation is to accept type-approvals issued in accordance with this UNECE Regulation as an alternative means demonstrating compliance with the requirements of their national/regional legislation.

4. Article 12 of the 1958 Agreement lays down the main principles for amendments to UNECE Regulations, in particular with regard to the obligation of Contracting Parties to accept type-approvals issued in accordance with the amended Regulations.

III. General guidelines on the scope of UNECE Regulations

5. The scope of a UNECE Regulation shall specify:
 - (a) For which categories of vehicles (M, N, etc.) UNECE type-approvals according to the Regulation can be issued;
 - (b) Which components, systems, parts are covered by the Regulation;
 - (c) If necessary, which vehicle categories, components, systems, parts are not covered by the Regulation and for which therefore no UNECE type-approval may be issued.
6. When drafting a UNECE Regulation or amendments thereto, experts of subsidiary bodies of WP.29 shall focus on the main principles mentioned in paragraphs 3 and 4 above. In particular, all UNECE type-approvals issued for vehicles covered by the scope of the UNECE Regulation shall be accepted by all the Contracting Parties applying the said UNECE Regulation. Furthermore, the choice to make the requirements of a Regulation mandatory on a national/regional basis is to be dealt nationally/regionally by Contracting Parties and shall therefore not be addressed within the scope of a UNECE Regulation. Finally, when adding new vehicle types/categories/components/systems/parts in the scope of the UNECE Regulation, experts shall ensure that these new vehicle types/categories/components/systems/parts are clearly defined and shall review the existing requirements accordingly.

IV. General guidelines on cross references to standards in UNECE Regulations

7. If a UNECE Regulation refers to an ISO standard or any other standard, which has been produced outside the UNECE framework, it shall refer to the number and the specific version of the standard, e.g. "ISO 29234:2004".

V. General guidelines on alternative requirements in UNECE Regulations

8. When considering alternative requirements within a UNECE Regulation, experts of the subsidiary bodies of WP.29 shall bear in mind the main principles mentioned in paragraphs 3 and 4 above.
9. Alternative technical requirements (e.g. alternative test procedure) may be used in a UNECE Regulation (Article 1.2(b) of the 1958 Agreement) provided that all UNECE type-approvals issued in accordance with any of the alternative requirements in that UNECE Regulation are accepted by all Contracting Parties applying that UNECE Regulation.
10. Bearing in mind that the application of UNECE Regulations is optional, UNECE Regulations shall not include options, or transitional provisions, to cope with the national/regional mandatory application of these Regulations. This issue has to be dealt with nationally/regionally by Contracting Parties.
11. Options in a UNECE Regulation permitting Contracting Parties to refuse some UNECE type-approvals issued in accordance with that UNECE Regulation go against the principle of mutual recognition (a UNECE type-approval shall be accepted by all the Contracting Parties applying the concerned UNECE Regulation). The only exceptions

given by the 1958 Agreement are specified in Articles 12.1 and 12.2, which define the conditions to be respected if, during a transitory period two series of amendments to a Regulation may be applied. In this case, all Contracting Parties applying the UNECE Regulation have to accept type-approvals issued according to the latest series of amendments (i.e. the most stringent configuration) of that UNECE Regulation and Contracting Parties applying the latest series of amendments of that UNECE Regulation cannot be obliged to accept type-approvals issued according to the previous version of the UNECE Regulation.

12. When some Contracting Parties wish to continue applying a previous series of amendments of a UNECE Regulation without any limitation in time (i.e. without transitional provisions), the conditions of Article 12.2 of the 1958 Agreement have to be fulfilled.

13. To avoid options in a UNECE Regulation, Contracting Parties have to bear in mind the mutual recognition principle and acknowledge that type-approvals issued for vehicle/component configuration(s) according to the latest series of amendments of the UNECE Regulation (e.g. the most stringent configuration) will have to be accepted by all Contracting Parties, irrespective of which configuration Contracting Parties will mandate in their national/regional legislation for their respective territories. For example, type-approvals issued for vehicles fitted with Electronic Stability Control (ESC) in compliance with the relevant series of amendments to the UNECE braking Regulations shall be accepted by all Contracting Parties applying those UNECE Regulation even if the fitment of ESC is not rendered mandatory in the territory of these Contracting Parties territory.

14. If a UNECE Regulation covers several components/equipment and Contracting Parties do not want to recognize the UNECE type-approvals for all of them, a solution to avoid options is to split the UNECE Regulation into several new UNECE Regulations covering the different components/equipment. This approach will enable Contracting Parties to decide which of these new Regulations they want to apply and therefore which equipment shall comply with the relevant requirements of these UNECE Regulations as a condition for being accepted on their domestic market, in accordance with the principle of mutual recognition.

15. As a general guideline, provisions for new components/systems which are not yet covered by existing UNECE Regulations shall be introduced through the development of new UNECE Regulations and not through amendments as options or add-ons to existing UNECE Regulations. This approach will avoid difficulties and enable Contracting Parties respecting the principle of mutual recognition of UNECE Regulation type-approvals.

VI. General guidelines on administrative/transitional provisions

16. When drafting administrative/transitional provisions in a UNECE Regulation, experts of subsidiary bodies of WP.29 shall bear in mind the main principles mentioned in paragraphs 3 and 4 above. Administrative/transitional provisions shall focus on the mutual recognition of UNECE approvals and a UNECE approval shall be accepted by all the Contracting Parties applying the UNECE Regulation concerned. Administrative/transitional provisions concerning the mandatory application of a UNECE Regulation at national/regional level have to be dealt with by Contracting Parties nationally/regionally and not through provisions in a UNECE Regulation.

17. Administrative/transitional provisions concerning the national/regional administrative procedure required (i.e. type-approval, registration) to place products on the national/regional market have to be dealt with nationally/regionally by Contracting Parties.

For example, a UNECE Regulation can neither prevent nor oblige Contracting Parties to require the application of the type-approval system for the placing on the market of some parts in their territories.

18. Administrative/transitional provisions may not set requirements for parts/vehicles that are outside the scope of the UNECE Regulation.

A. New UNECE Regulation

19. A new UNECE Regulation shall specify the date of the entry into force of the UNECE Regulation, as from which Contracting Parties applying that Regulation can issue UNECE type-approvals according to that UNECE Regulation.

20. The Contracting Parties who are planning to apply a new UNECE Regulation on a mandatory basis in their national/regional legislation should take into account the date of entry into force of that new UNECE Regulation.

B. Series of amendments

21. Series of amendments shall be developed to change the technical requirements that the vehicle types, systems or components shall fulfil as from a certain date, in order to obtain UNECE type-approval, even if the amendments are a minor technical change and do not affect vehicle/system/component design drastically. In this procedure the modification of the approval marking is necessary to differentiate the new approvals to the amended UNECE Regulation (hereinafter referred to as "the new approvals") from the existing approvals to the preceding amendments or unamended UNECE Regulation (hereinafter referred to as "the existing approvals").

22. Contracting Parties cannot be obliged to accept existing approvals as from the date of entry into force of these latest series of amendments unless otherwise expressly written in the transitional provisions. Contracting Parties not applying the latest series of amendments to a UNECE Regulation shall accept type-approvals issued according to the latest series of amendments of that UNECE Regulation.

23. The new series of amendments shall contain at least the following:

- (a) An update of the series of amendments used in the marking provisions and updated examples of markings
- (b) The date as from which Contracting Parties are entitled to issue a UNECE type-approval in accordance with the amended UNECE Regulation and as from which Contracting Parties may not refuse such type-approvals (defined as (a) date in Figure 1). In general, this date should be the date of entry into force of the series of amendment.
- (c) The date as from which the vehicle/system/component shall comply with the new requirements to obtain a UNECE type-approval (defined as (b) date in Figure 1), and the date from which Contracting Parties applying the latest series of amendments cannot be obliged to issue type-approvals based on the previous series of amendments of a UNECE Regulation;
- (d) The date as from which Contracting Parties may refuse existing UNECE approvals (defined as (c) date in Figure 1).

24. The series of amendments may also contain a transitional provision on the conditions for granting extensions to existing approvals (i.e. in the case of slight modifications to an existing vehicle type, without affecting the basic definition of type). Furthermore, the series of amendments may also contain a transitional provision for Contracting Parties, whose application of the UNECE Regulation comes into force after the date of entry into force of the amendments, indicating that such Contracting Parties are not obliged to accept the existing approvals.

25. General guidelines of transitional provisions for a series of amendments are set forth in Annex 1 of this document.

C. Supplement

26. A Supplement addresses an amendment to a UNECE Regulation which does not entail a modification in the approval marking and is normally used for:

- (a) Clarification of test procedures, not imposing new requirements, or
- (b) Taking into account of new developments which have arisen after the adoption of a UNECE Regulation (i.e. extension of scope)

27. A Supplement shall not be used when it is necessary for Contracting Parties to differentiate the new approvals from the existing approvals.

28. A Supplement becomes applicable as from the date of its entry into force, as from which tests according to the UNECE Regulation need to take into account the Supplement in question. In the absence of any other date mentioned, Supplements become applicable for all approval procedures started as from the date of its entry into force.

29. The existing approvals remain valid and Contracting Parties shall continue to recognize them.

D. Corrigendum

30. A Corrigendum consists of corrections (i.e. bringing into order of one or several errors, e.g. correction of linguistic errors or involuntary omissions) to previously adopted UNECE Regulations and amendments and is normally used to avoid different interpretations. Corrigenda are deemed *ab initio*, whereby the date of entry into force indicates the date of circulation by the Depositary, or – as from 16 October 1992 – the date of adoption by WP.29, or – as from 16 October 1995 – the date of adoption by the Administrative Committee AC.1.

E. Consideration for Special Cases

1. Special Cases for Series of Amendments

(a) Special case 1-1: Introduction of new requirements for installation of components

31. In the case of requirements for installation of components that are added to a UNECE Regulation but without modifying the requirements on these components, not being necessary to change the approval and markings of the components, it is

recommended to follow the procedure of the series of amendments with a special transitional provision stating:

"xx. Even after the date of entry into force of the XX series of amendments, UNECE type-approvals of the components and separate technical units to the preceding series of amendments to the UNECE Regulation shall remain valid and Contracting Parties applying the UNECE Regulation shall continue to accept them."

(b) *Special case 1-2: Change of requirements only for some categories of vehicles/components*

32. When an amendment modifies the technical requirements of only some of the various categories of vehicles or components in the scope of the UNECE Regulation and when the technical requirements for the other categories of vehicles or components remain unchanged, it is recommended to follow the procedure of series of amendments with a special transitional provision stating:

"xx. Even after the date of entry into force of the XX series of amendments, UNECE type-approvals of the vehicle categories or the components to the preceding series of amendments to the UNECE Regulation which are not affected by the XX series of amendments shall remain valid and Contracting Parties applying the UNECE Regulation shall continue to accept them."

(c) *Special case 1-3: Indefinite validity of former series of amendments*

33. If the Contracting Parties applying the UNECE Regulation in question agree to continue to accept the existing approvals indefinitely, the new series of amendments can contain a special transitional provision, instead of defining the date stipulated in paragraph 23(c) and (d), stating:

"xx. Even after the date of entry into force of the XX series of amendments, UNECE type-approvals to the preceding series of amendments to the UNECE Regulation shall remain valid and Contracting Parties applying the UNECE Regulation shall continue to accept them."

2. Special Case for Supplements (Special case 2):

34. Even in the case of Supplements which do not change the technical requirements, it should be clarified that type-approvals in accordance with the Supplement to the UNECE Regulation can be issued and shall be accepted as from the date of its entry into force. To that effect, Supplements shall contain the following provision:

"xx. As from the official date of entry into force of Supplement YY to the XX series of amendments to this Regulation, no Contracting Party applying this UNECE Regulation shall refuse to grant or refuse to accept UNECE type-approvals according to Supplement YY to the XX series of amendments to this UNECE Regulation."

35. In the case time is needed to accommodate the production to the provisions of the new Supplement, the following transitional provision may be used:

"xx. Until ... months after the date of entry into force of the Supplement YY to the XX series of amendments to this UNECE Regulation, Contracting Parties applying this UNECE Regulation can continue to grant UNECE type-approvals to the XX series of amendments to this UNECE Regulation without taking into account the provisions of Supplement YY."

3. Miscellaneous

36. When considering amendments of UNECE Regulations, the subsidiary bodies of WP.29 shall bear in mind:

- (a) When several amendment proposals to the same UNECE Regulation are under consideration, these proposals should, wherever possible, be grouped together into the same series of amendments ,
- (b) Before submitting proposals for amendment to UNECE Regulations, the experts of the subsidiary bodies are required to study this document carefully and indicate the amendment procedure they want to propose,
- (c) When submitting proposals for a new series of amendments with transitional provisions, the experts of subsidiary bodies shall propose to delete obsolete transitional provisions for the previous series of amendments, and
- (d) The issue of transitional provisions, especially their appropriateness for series of amendments or for Supplements, should always be carefully examined to ensure that the principles mentioned in paragraphs 3 and 4 above are fully respected.

VII. Revision and extension of type-approvals in the framework of the 1958 Agreement

37. Every modification of the vehicle type shall be notified to the Type-approval Authority which approved the vehicle type. The Type-approval Authority shall then either:

- (a) Decide, in consultation with the manufacturer, that a new type-approval is to be granted, or
- (b) Apply the procedure contained in paragraph A (Revision) below and, if applicable, the procedure contained in paragraph B (Extension) below.

A. Revision

38. When particulars recorded in the information folder have changed and the Type-approval Authority considers that the modifications made are unlikely to have an appreciable adverse effect on the environmental and/or functional safety performance, and that in any case the vehicle still complies with the requirements, the modification shall be designated a "revision". In such a case, the Type-approval Authority shall issue the revised pages of the information folder as necessary, marking each revised page to show clearly the nature of the modification and the date of re-issue. A consolidated, updated version of the information folder, accompanied by a detailed description of the modification, shall be deemed to meet this requirement.

B. Extension

39. The modification shall be designated an "extension" if, in addition to the change of the particulars recorded in the information folder:

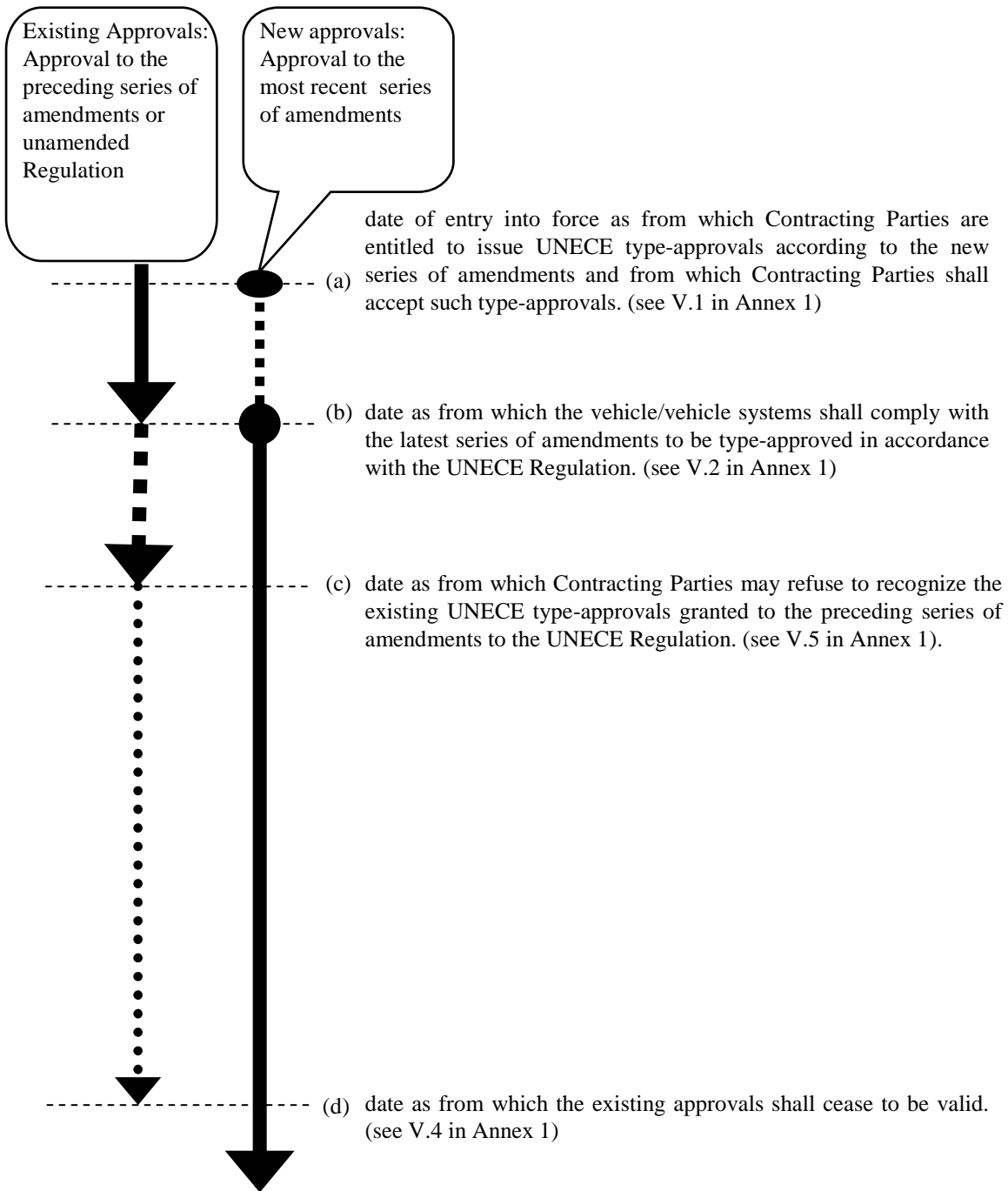
- (a) Further inspections or tests are required, or

- (b) Any information on the communication document (with the exception of its attachments) has changed, or
- (c) Approval to a later series of amendments is requested after its entry into force.

40. Confirmation or refusal of approval, specifying the alterations, shall be communicated to the Contracting Parties to the Agreement which apply this UNECE Regulation by means of the communication document. In addition, the index to the information package, attached to the communication document, shall be amended accordingly to show the date of the most recent revision or extension.

41. The Type-approval Authority issuing the extension of approval shall assign a series number to each communication form drawn up for such an extension.

Figure 1
Illustration of a transitional period for a vehicle, or vehicle systems, covered by a UNECE Regulation and its amendments



Note:

If (b) and (c) dates are not written in to the transitional provisions, they are regarded as identical to date (a).

If date (d) is not written in the transitional provisions, the existing approvals can remain valid, but Contracting Parties cannot be obliged to accept existing approvals as from date (c).

Annex 1

General guidelines on transitional provisions for series of amendments

I. Situations to be considered

1. Transitional provisions should consider:
 - (a) UNECE type-approvals
 - (b) The acceptance of UNECE type-approvals as equivalent to national/regional type-approvals
2. "UNECE type-approvals" can relate to:
 - (a) A new Regulation
 - (b) An amended or revised Regulation
 - (c) A previous version of a Regulationor it can be an approval with extended application
3. The products to which UNECE type-approval apply can be divided into:
 - V: Vehicles and systems
 - C: Components and separate technical units
 - F: Installation of components or separate technical units in new vehicles
 - R: Replacement parts for vehicles in use
4. The combination of cases of the above paragraphs 1 and 2 with the products under paragraph 3 of this Annex could result in a larger number of transitional provisions. A proper selection of the various clauses has to be made for each individual case.
5. The following four sets of general guidelines should be considered as an "aide-mémoire" including the different possibilities for transitional provisions. This does not mean that all of them should be used together and a careful selection should be made to avoid contradictions. In addition, and in spite of their heading, each set should be considered in each case and for each clause to ensure that the provisions are complete, e.g. paragraph "Replacement parts on vehicles in use" also can apply to the transitional provisions "Components and separate technical units".

II. Aide-mémoire

A. Transitional provisions for vehicles and vehicle systems

- V.1 As from the official date of entry into force of the XX series of amendments, no Contracting Party applying this UNECE Regulation shall refuse to grant or refuse to accept UNECE type-approvals under this UNECE Regulation as amended by the XX series of amendments.
- V.2 As from ... months after the date of entry into force of the XX series of amendments, Contracting Parties applying this UNECE Regulation shall grant UNECE type-approvals only if the vehicle type to be approved meets the requirements of this UNECE Regulation as amended by the XX series of amendments.
- V.3 Contracting Parties applying this UNECE Regulation shall not refuse to grant extensions of UNECE type-approvals for existing types which have been issued according to the preceding series of amendments to this UNECE Regulation.
- V.4 Until ... months after the date of entry into force of the XX series of amendments to this UNECE Regulation, no Contracting Party applying this Regulation shall refuse national or regional type approval of a vehicle type-approved to the preceding series of amendments to this Regulation.
- V.5 As from ... months after the date of entry into force of the XX series of amendments to this UNECE Regulation, Contracting Parties applying this Regulation shall not be obliged to accept, for the purpose of national or regional type-approval, a vehicle type-approved to the preceding of amendments to this Regulation.
- V.6 As from ... months after the date of entry into force of the XX series of amendments to this UNECE Regulation, UNECE type-approvals to this UNECE Regulation shall cease to be valid, except in the case of vehicle types which comply with the requirements of this UNECE Regulation as amended by the XX series of amendments.
- V.7 Notwithstanding the transitional provisions above, Contracting Parties whose application of this UNECE Regulation comes into force after the date of entry into force of the most recent series of amendments are not obliged to accept UNECE type-approvals which were granted in accordance with any of the preceding series of amendments to this UNECE Regulation/ are only obliged to accept UNECE type-approval granted in accordance with the XX series of amendments.
- V.8¹ Notwithstanding paragraph... (V.5 or V6 type of transitional provisions), UNECE type-approvals of the vehicle categories ² to the preceding series of amendments to the UNECE Regulation which are not affected by the XX

¹ Paragraph V.8 can be used in addition to V.5 of V.6 only when the amendment follows the procedure of Special Case 1-2.

² It is recommended to clearly specify here the vehicle categories which are not affected by the amendment (e.g. M₁ category of vehicle or N₁ category of vehicle)

series of amendments shall remain valid and Contracting Parties applying the UNECE Regulation shall continue to accept them.

- V.9³ Even after the entry into force of the XX series of amendments to this UNECE Regulation, UNECE type-approvals of the vehicles to the preceding series of amendments to the UNECE Regulation shall remain valid. Contracting Parties applying this UNECE Regulation shall continue to accept them.

B. Transitional provisions for components and separate technical units

- C.1 As from the official date of entry into force of the XX series of amendments, no Contracting Party applying this UNECE Regulation shall refuse to grant or accept UNECE type-approval under this UNECE Regulation as amended by the XX series of amendments.
- C.2 As from ... months after the date of entry into force, Contracting Parties applying this UNECE Regulation shall grant UNECE type-approvals only if the type of component or separate technical unit to be approved meets the requirements of this UNECE Regulation as amended by the XX series of amendments.
- C.3 Contracting Parties applying this UNECE Regulation shall not refuse to grant extensions of UNECE type-approval to the preceding series of amendments to this UNECE Regulation.
- C.4 Starting ... months after the entry into force of the XX series of amendments to this UNECE Regulation, Contracting Parties applying this UNECE Regulation may refuse (national or regional type-approval and may refuse) the sale of a type of component or separate technical unit which does not meet the requirements of the XX series of amendments to this UNECE Regulation (unless the component or separate technical unit is intended as a replacement for fitting on vehicles in use and that it would not be technically feasible for the component or separate technical unit in question to satisfy the new requirements contained in this UNECE Regulation as amended by the XX series of amendments.)⁴
- C.5 Contracting Parties applying this UNECE Regulation shall continue to grant UNECE type-approvals for devices (components and separate technical units) on the basis of any previous series of amendments, provided that the devices (components and separate units) are intended as replacements for fitting to vehicles in use and that it is not technically feasible for the devices (components and separate technical units) in question to satisfy the new requirements of the latest series of amendments.
- C.6 As from ... months after the date of entry into force of the XX series of amendments to this UNECE Regulation, UNECE type-approvals to this UNECE Regulation shall cease to be valid, except in the case of types of component or separate technical unit which comply with the requirements of this UNECE Regulation as amended by the XX series of amendments.

³ Paragraph V.11 can be used instead of paragraph V.7 or V.8 only when the amendment follows the procedure of Special Case 1-3.

⁴ The text between brackets may not be necessary in some cases.

- C.7 Notwithstanding the transitional provisions above, Contracting Parties whose application of this UNECE Regulation comes into force after the date of entry into force of the most recent series of amendments are not obliged to accept UNECE type-approvals which were granted in accordance with any of the preceding series of amendments to this UNECE Regulation / are only obliged to accept UNECE type-approval granted in accordance with the XX series of amendments.
- C.8⁵ Notwithstanding paragraph...(C.4 or C.6 type of transitional provisions), UNECE type-approvals of the components or separate technical units ⁶ to the preceding series of amendments to the UNECE Regulation which are not affected by the XX series of amendments shall remain valid and Contracting Parties applying the UNECE Regulation shall continue to accept them.
- C.9 ⁷ Even after the entry into force of the XX series of amendments to this UNECE Regulation, UNECE type-approvals of the components and separate technical units to the preceding series of amendments to the UNECE Regulation shall remain valid and Contracting Parties applying this UNECE Regulation shall continue to accept them.

C. Transitional provisions for the installation of components and separate technical units in new vehicles

- F.1 As from the official date of entry into force of the XX series of amendments, no Contracting Party applying this UNECE Regulation shall refuse type-approvals of vehicles fitted with a component or separate technical unit approved under this UNECE Regulation as amended by the XX series of amendments.
- F.2 Contracting Parties applying this UNECE Regulation shall continue to accept type-approvals of vehicles fitted with a component or separate technical unit approved to this UNECE Regulation as amended by the preceding series of amendments during the ... months' period which follows the date of entry into force of the XX series of amendments.
- F.3 Upon the expiration of a period of ... months after the date of entry into force of the XX series of amendments, Contracting Parties applying this UNECE Regulation refuse to issue or to accept type-approvals to vehicles fitted with a component or separate technical unit which does not meet the requirements of this UNECE Regulation as amended by the XX series of amendments.

D. Transitional provisions for replacement parts for vehicles in use

- R.1 Contracting Parties applying this UNECE Regulation shall continue to grant UNECE type-approvals to those types of component or separate technical unit which comply with the requirements of this UNECE Regulation as amended by any previous series of amendments provided that the component

⁵ Paragraph C.8 can be used in addition to C.4 or C.6 only when the amendment follows the procedure of Special Case 1-2.

⁶ It is recommended to clearly specify here the components or separate technical units which are not affected by the amendment (e.g. safety-belts for M₁ category of vehicles).

⁷ Paragraph C.9 can be used instead of paragraph C.4 or C.6 only when the amendment follows the procedure of Special Case 1-1 or 1-3.

or separate technical unit is intended as a replacement for fitting on vehicles in use and that it would not be technically feasible to fit a component or separate technical unit which satisfies the requirements contained in this UNECE Regulation as amended by the XX series of amendments.

- R.2 As from the date of entry into force of the XX series of amendments, no Contracting Party applying this UNECE Regulation shall prohibit fitting or use on a vehicle in use of a component or separate technical unit approved under this UNECE Regulation as amended by the XX series of amendments.
- R.3 Contracting Parties applying this UNECE Regulation shall continue to allow fitting or use on a vehicle in use of a component or separate technical unit approved to this UNECE Regulation as amended by the preceding series of amendments during the ... months period which follows the date of entry into force of the XX series of amendments.
- R.4 Contracting Parties applying this UNECE Regulation shall continue to allow fitting or use on a vehicle in use of a component or separate technical unit approved to this UNECE Regulation as amended by any previous series of amendments provided that the component or separate technical unit is intended as a replacement and that it would not be technically feasible for the component or separate technical unit in question to satisfy the new requirements contained in this UNECE Regulation as amended by the XX series of amendments.

Annex 2

Example of wording for the scope of UNECE Regulations

- "1. Scope
- 1.1. This UNECE Regulation applies to the type-approval of vehicles of categories M₂ or M₃⁸ with regard to
- 1.2. This UNECE Regulation does not apply (UNECE approvals to this UNECE Regulation may not be granted) to the following vehicles:
 - 1.2.1. Vehicles designed for the secure transport of persons, for example prisoners;
 - 1.2.2. Vehicles specially designed for the carriage of injured or sick persons (ambulances);
 - 1.2.3. Off-road vehicles.
- ..."

⁸ As defined in the Consolidated Resolution on the Construction of Vehicles (R.E.3.), document ECE/TRANS/WP.29/78/Rev.2, para. 2.

B. Justification

1. The purpose of this document is to harmonize the practice of the World Forum subsidiary bodies regarding specifying the scope and the administrative/transitional provisions in UNECE Regulations.

Background

2. One of the main goals of the 1958 Agreement is to facilitate trade through the mutual recognition of UNECE type-approvals as an *alternative* to the national/regional type-approvals. Article 3 of the 1958 Agreement states:

"Wheeled vehicles, equipment or parts for which (UNECE) type-approvals have been issued by a Contracting Party ... *shall be held to be in conformity with the legislation of all the Contracting Parties applying the said UNECE Regulation through type-approval.*"

3. An increasing number of Contracting Parties (e.g. EC and Japan), not only consider UNECE Regulations as an alternative to their national legislation, but make them as the only valid legislation for type-approval in their territory (i.e. by direct reference to UNECE Regulations). Consequently, to cope with the different national priorities, Contracting Parties (CP) tend to introduce in UNECE Regulations specific administrative provisions on the national application of these UNECE Regulations: options, "optional" scope, national transitional provisions, etc. As an international agreement, the 1958 Agreement only deals with the mutual recognition of UNECE approvals. It does not cover the mandatory application of UNECE Regulations at the national/regional level, which remains the exclusive competence of the CP. Introducing provisions on the national mandatory application of UNECE Regulations may therefore confuse, limit or restrict CP on what they can do at national/regional level, increase the risk of inconsistencies in the UNECE Regulations and increase the risks of disputes over mutual recognition. At the end, this practice may result in the withdrawal by some CP from some UNECE Regulations and may jeopardize the credibility of the 1958 Agreement itself.

4. In addition, in some of the existing UNECE Regulations (i.e. ESC in UNECE Regulation No. 13-H), it has been proposed to give the possibility to the CP to reject certain UNECE type-approvals. This contradicts the main principles of Article 3 of the Agreement (recognition by *all* CP) and Article 11, paragraph 3 (no reservation accepted with the exception to Article 10 of the Agreement). Opening the door to non-acceptance of UNECE type-approvals risks to undermine the principle of mutual recognition of the Agreement.

Proposal

5. To address the above mentioned problems, CP may wish to amend the 1958 Agreement as considered appropriate. However, in the meantime, it is proposed in the above guidelines to recall and to reconfirm the basic principles of the Agreement

- (a) *All* UNECE type-approvals granted according to a UNECE Regulation shall be accepted by *all* the Contracting Parties applying the UNECE Regulation as an *alternative* to the national/regional type-approval.
- (b) The administrative provisions of the UNECE Regulations shall focus on the *mutual_recognition* of UNECE approvals. The mandatory application of a

UNECE Regulation nationally/regionally shall not be dealt within this UNECE Regulation but within national/regional legislation of CP.

- (c) New requirements for equipment not covered by existing UNECE Regulations (e.g. TPMS, BAS, ESC, etc) should be introduced as new UNECE Regulations and not as an amendment to an existing UNECE Regulation. This principle will avoid options in the UNECE Regulations and the subsequent possibility for CP to refuse some type-approvals issued in accordance with such UNECE Regulations.

6. The changes to the current guidelines (TRANS/WP.29/1044) concern mainly new paragraphs 3 to 14 of this proposal dealing with the principles of the Agreement, the scope, the administrative provisions and alternative requirements in UNECE Regulations. The section on transitional provisions has also been considerably changed and simplified, by limiting them only to the aspects relating to the principles of mutual recognition of type-approvals, and avoiding interference in aspects which are the exclusive competence of CP.
