

The 58 Agreement – Questions and Answers

1. What is the 58 Agreement?

The 1958 Agreement is a multilateral agreement made under the United Nations Economic Commission for Europe (UNECE) with the objective of establishing uniform regulations for vehicles and their components relating to safety, environment, energy, and anti-theft requirements.

The Agreement aims at promoting the harmonization of Regulations and mutual recognition of approvals amongst Contracting Parties to the Agreement.

It was revised in 1995 (Revision 2) to promote the participation of non-European countries (such as Japan, South Africa, Australia, etc.) and became a global agreement. Furthermore, the Agreement recognizes self-certification as an alternative to type approval and, therefore, does not preclude those countries whose rules and regulations are implemented through self-certification from becoming Contracting Parties (see also question 8 below).

The Regulations adopted under this Agreement are known as UN Regulations.

The text of the Agreement as well as all UN Regulations annexed to it can be consulted or downloaded at: www.unece.org/trans/main/wp29/wp29regs.html

In addition, a further revision (revision 3) is being developed and is expected to enter into force by end of 2016. What this revision entails is further explained in the following questions.

2. What is the concept of mutual recognition under the 1958 Agreement?

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

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

Mutual recognition of approvals is the cornerstone of the 1958 Agreement. Under this concept, a Contracting Party that applies a UN Regulation (the term "apply a UN Regulation" will be explained later in this document) is legally obliged to accept type approvals granted by another Contracting Party for that same UN Regulation. This principle is further stressed in the draft Revision 3 of the 1958 Agreement: draft Article 3 clearly states that Contracting Parties shall not require any further testing, documentation, certification or marking concerning these type approvals (this obviously does not address specific documents e.g. for customs).

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

As explained in question 11 below, draft Revision 3 of the 1958 Agreement foresees the possibility to grant type approvals to former (older) versions of UN Regulations, with the consequent clarification that Contracting Parties will have the possibility, but not the obligation, to accept such type approvals to an earlier version(s) of UN Regulations they apply; they will however remain obliged to accept type approvals to the latest version of UN Regulations they apply. Details about further obligations to accept approvals to different versions may be specified in the transitional provisions of a Regulation.

3. Do all UN Regulations need to be adopted by a Contracting Party of the 1958 Agreement?

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

Furthermore, a Contracting Party can cease applying any Regulation at any time giving one year's notice. The approvals to that UN Regulation previously granted by that Contracting Party shall remain valid until their withdrawal.

4. What is the meaning of "applying" a UN Regulation?

A Contracting Party that applies a UN Regulation has all the rights and obligations stipulated in the 1958 Agreement. It has the right to grant type approvals to that UN Regulation (see also questions 5 and 9 below) and to vote on any further amendments to that UN Regulation. All Contracting Parties to the 1958 Agreement can participate in the elaboration of new UN Regulations.

The only obligation for that Contracting Party is to accept valid type approvals to that UN Regulation granted by another Contracting Party.

Furthermore, the draft revision 3 to the 1958 Agreement has added a new right, namely to grant (and accept) approvals to an earlier version of a UN Regulation (see also question 11 below).

5. Are UN Regulations legally binding?

Yes and no: a UN Regulation in force legally binds all those Contracting Parties which signed this UN Regulation, as from the date of its official entry into force.

However, it must be clarified that the only obligation for such Contracting Parties is to recognise the type approvals issued by any other Contracting Party which also signed this UN Regulation. This means that the Contracting Party has the freedom to also accept vehicles/parts satisfying alternative requirements to those contained in the UN Regulation or even to not impose any requirements. It cannot, however, mandate any requirements differing from the UN Regulation it applies (see also next question 6 below).

Furthermore, any Contracting Party which signed a UN Regulation may issue type approvals according to that UN Regulation, provided it has the technical and administrative competence (see also question 9).

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

6. Are UN Regulations mandatory?

No, UN Regulations are not mandatory. A Contracting Party which signed a UN Regulation can retain an alternative national legislation. The only obligation for such Contracting Party is to accept valid type approvals to that UN Regulation as proof of compliance.

7. Can alternative national requirements remain in place?

Yes, as explained in question 6 above, Contracting Parties applying a UN Regulation can retain alternative requirements, as long as they accept valid type approvals to that UN Regulation.

As an example, a Contracting Party applying a UN Regulation may decide to equally accept systems/components meeting alternative (e.g. FMVSS) requirements; they may even decide not to have any legal requirement nationally, as long as the use of type approvals to that UN Regulation is not prevented.

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

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

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

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

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

There is no strict obligation to that.

First of all, it should be clear that type approvals can only be granted when the necessary technical competence is available. However, if that country does have the necessary competence, it has the theoretical obligation to grant approvals that could possibly be requested (provided of course all conditions are met for these approvals). Practically, such theoretical obligation has never been enforced.

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

Finally, the technical service in charge of conducting the tests can do so in its own test facilities, or in the test facilities of the manufacturer which applied for approval.

10. Is it possible to have two levels of stringency in a UN Regulation? If yes, how does the mutual recognition of approvals take place?

Under the current 1958 Agreement, there is no provision for distinct stringency levels in a Regulation. However, if a Regulation is amended and at least 1/5th of the Contracting Parties applying the unamended Regulation subsequently declare that they wish to continue to apply the Regulation not amended, the unamended Regulation is regarded as an alternative to the amended Regulation. Thus, it is formally incorporated in the Regulation.

In such a case, the Contracting Parties can choose which alternative they would like to accept. The Contracting Party opting for an earlier version will have to accept the approvals granted as per the latest amendments. However, the Contracting Party opting for the recent amendment is not obliged to accept the approvals granted for former versions of the Regulation.

It should be noted that this whole concept will be drastically changed once Revision 3 of the 58 Agreement enters into force (see also question 11 below).

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

Under the current 1958 Agreement, this is not possible, subject to the special case outlined in question 10 above: type approvals can only be granted on the basis of the latest amendment in force, depending on the dates indicated in the transitional provisions.

Draft Revision 3 of the 1958 Agreement however now foresees this new possibility. All Contracting Parties applying a UN Regulation will have the possibility to grant approvals to any former version of that UN Regulation and can also decide to accept such approvals on their national market. The only obligation in such a case is to also accept approvals granted to the latest version of the UN Regulation.

Other Contracting Parties may however decide to only accept type approvals to the latest version of a UN Regulation.

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

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

As noted in question 4, any Contracting Party can vote on the development of new UN Regulations and on the further amendments of those UN Regulations it applies.

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

13. What is the Conformity of Production (COP) procedure?

Before granting a type approval pursuant to a Regulation annexed to the 1958 Agreement, the type approval authority of a Contracting Party has to proceed to an initial assessment of the manufacturer's production plant, i.e. verify the existence of satisfactory arrangements and procedures (such as standard ISO 9001) for ensuring effective control so that vehicles, equipment or parts when in production conform to the approved type. The type approval

authority has to verify the existence of adequate arrangements and documented control plans, to carry out at specified intervals tests or associated checks necessary to verify continued conformity with the approved type, including, where applicable, the specific conformity of production (COP) tests laid down in the applicable Regulation.

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

14. What are the most important changes to be introduced with the Revision 3 of the 1958 Agreement?

Revision 3 of the 1958 Agreement is foreseen to be adopted in late 2016/early 2017. The most important changes introduced with this Revision are

- Possibility to issue type approvals to earlier versions of UN Regulations (see also question 11)
- Change of the voting majority for UN Regulations and amendments thereof from 2/3 to [4/5]
- Introduction of the possibility of virtual testing (if so foreseen in the specific UN Regulation)
- Introduction of the possibility to grant exemption approvals for new technologies not meeting all requirements of a UN Regulation (but safeguarding an equivalent level of safety and environmental protection)
- Standardization of type approval documentation via the obligation to include information documents into UN Regulations
- Introduction of a UN database for exchange of type approval information (DETA) with the possibility to replace approval markings by a Unique Identifier
- Introduction of an International Whole Vehicle Type Approval (IWVTA) to further promote harmonization and mutual recognition

15. How can industry participate in the 58 Agreement?

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