

1998 Global Agreement concerning Wheeled Vehicles (Geneva, 28 June 1998)

Introduction

- 2.1 The *Agreement concerning the Establishment of Global Technical Regulations for Wheeled Vehicles, Equipment and Parts which can be Fitted and/or be Used on Wheeled Vehicles*,¹ referred to hereafter as the 1998 Global Agreement, was signed in Geneva on 28 June 1998 and came into force generally on 25 August 2000.²
- 2.2 The 1998 Global Agreement is designed to reduce barriers to international trade in the motor vehicle industry by harmonising national standards for motor vehicles.³ Upon accession to the 1998 Global Agreement, Australia would become a Contracting Party, and could then choose whether or not to adopt selected 'global technical regulations' established under the Agreement as part of its own national standards for vehicle design.⁴

1 [1998] ATSD 4616.

2 National Interest Analysis (NIA), para. 2.

3 NIA, para. 6.

4 NIA, para. 2.

Background

- 2.3 Most countries, including Australia, maintain mandatory national standards for motor vehicles. Standards are designed to make vehicles safer to use as well as to control the emission levels of vehicles. However, the use of different technical standards for like products imposes barriers to international trade. This effect is magnified within the automotive industry, which has become increasingly reliant on global supply chains to manufacture and distribute vehicles to consumers.⁵

The 1958 Agreement

- 2.4 The 1998 Global Agreement follows an earlier Agreement on the same subject. The 1958 Agreement⁶ was done at Geneva on 20 March 1958 and came into force generally on 20 June 1959, with effect for Australia from 25 April 2000.⁷
- 2.5 The 1958 Agreement was first developed by the United Nations Economic Commission for Europe (UN/ECE) after the Second World War. It was intended to enhance technical uniformity for motor vehicles, equipment and parts between European countries, although it was also open to non-European countries.

The need for two separate Agreements

- 2.6 According to the Regulation Impact Statement (RIS) tabled with the NIA, the 1958 Agreement is still needed as
- it provides today's international standards. However, the 1998 Global Agreement is the mechanism to provide tomorrow's harmonised global standards.⁸
- 2.7 The 1958 Agreement and the 1998 Global Agreement operate simultaneously,⁹ with many countries Contracting Parties to both

5 Regulation Impact Statement (RIS), p. 2.

6 Full title: *Agreement concerning the Adoption of Uniform Technical Prescriptions for Wheeled Vehicles, Equipment and Parts which can be fitted and/or used on Wheeled Vehicles and the conditions for Reciprocal Recognition of Approvals Granted on the Basis of these Prescriptions, as amended to 16 October 1995* [2000] ATS 11. See JSCOT Report 25.

7 NIA, para. 14.

8 RIS, p. 11.

9 Article 1.2.

agreements.¹⁰ The two Agreements are necessary as they reflect the different governmental compliance systems used to regulate vehicles. The earlier 1958 Agreement is based on the European system of compliance, the most commonly used around the world, including in Japan and Australia. The system is known as “type approval”: vehicles and their constituent components are approved as meeting standards by government regulators prior to the vehicle entering the market.¹¹

2.8 Some countries use regulatory systems that are incompatible with the European approach. For instance, the US is unable to recognise the approvals of other countries because vehicles or components in the US are not “approved” as such. The US uses a system based on “self-certification”, whereby the manufacturer or importer “self-certifies” that the vehicle meets the standards. After the vehicle is introduced into the market, the government regulator selectively purchases and tests sample vehicles, with those vehicles that fail being recalled.¹²

2.9 A small number of other countries also adopt incompatible regulatory systems. Canada’s regulatory system is closely aligned with that of the US, while China has its own “China Compulsory Certification” system. These countries are unable to join the 1958 Agreement as they lack the “type approval” scheme.¹³ Hence, the 1998 Global Agreement was negotiated to cater for these economies.

2.10 Representatives from the Department of Transport and Regional Services (DOTARS) informed the Committee that:

This new treaty brings the United States of America, Canada and China into the fold. Previously they were prevented from acceding to the older 1958 agreement, as it contained an element that was not acceptable to them – namely, the mutual recognition of conformity assessment activities.¹⁴

...

The United States and Canada have their own arrangements for certifying or approving vehicles, which is to say that the government does not intervene at the pre-market stage.

10 For instance, Japan, the Republic of Korea, New Zealand, the E.C., France, Germany, Italy, Spain, Sweden and the U.K.: NIA, para 15.

11 RIS, p. 8.

12 RIS, p. 8.

13 RIS, p. 8.

14 Mr Allan Jonas, *Transcript of Evidence*, 22 June 2007, p. 1.

Manufacturers are fully aware of the standards that apply and they are expected to make sure they comply. Having entered the market, they need to be cognisant of the fact that, if they do not comply and are found to be non-compliant at a later stage, there are severe penalties involved and the governments do not feel the necessity to get involved in pre-market evaluations. This new treaty does not include a mutual recognition component, so the United States and Canada are quite comfortable entering into this agreement. In fact, they are founding members and the agreement would not have got off the ground if it were not for their good offices.¹⁵

Operation of the two Agreements

- 2.11 The Agreements are designed to harmonise member countries' national standards, whilst at once achieving the world-wide performance goals of enhancing vehicle safety, environmental protection, energy efficiency and anti-theft performance.¹⁶ The Agreements do this by allowing Contracting Parties to develop international "technical regulations" to govern the design and performance of motor vehicles. These regulations are developed via consultation between Contracting Parties. Once established, the regulations are then available for "adoption" by Contracting Parties. For the 1958 Agreement, the regulations are known as "UN/ECE Regulations". For the 1998 Global Agreement, the regulations are known as "global technical regulations".¹⁷
- 2.12 There are 125 UN/ECE Regulations annexed to the 1958 Agreement, many dating back as far as the 1960s. The Regulations are widely adopted, with 90 Regulations having been adopted by three-quarters of Contracting Parties.¹⁸
- 2.13 The intention is to harmonise the UN/ECE Regulations and the global technical regulations, so that they eventually cover the same content, specify the same technical standards and mandate the same

15 Mr Allan Jonas, *Transcript of Evidence*, 22 June 2007, p. 2.

16 NIA, para. 6.

17 RIS, p. 9.

18 NIA, para. 18; RIS, p. 9.

performance.¹⁹ The 1998 Global Agreement provides the longer-term solution of a single set of harmonised global standards. The US, Canada and China will be progressively brought into the same system for vehicle standards as the rest of the world.²⁰

Establishment of global technical regulations

- 2.14 Global technical regulations are a much more recent development than the UN-ECE Regulations, and are only just beginning to have an impact. Only five global technical regulations have been established for the 1998 Global Agreement, all covering minor topics.²¹ The number of global technical regulations is expected to increase in the future.²²
- 2.15 Once established, global technical regulations are listed in a “Global Registry”.²³ A regulation may become listed in the Global Registry in one of two ways:
- harmonisation of an existing regulation;²⁴ or
 - development of a new global technical regulation.²⁵
- 2.16 There are two forms of existing regulations that may be harmonised and become global technical regulations:
1. The **UN/ECE Regulations** are automatic “candidates” to be established as global technical regulations.
 2. Any Contracting Party may nominate **pre-existing national standards** to be established as global technical regulations.²⁶
- 2.17 In both cases, the candidate regulation must meet the criteria for regulations set out in the Agreement²⁷ and be adopted by a consensus vote of the Executive Committee²⁸ in favour of the regulation.²⁹ In

19 RIS, p. 10.

20 RIS, p. 10.

21 NIA, para. 18; RIS, p. 9.

22 NIA, para. 18.

23 NIA, para. 9. See Article 6: Registry of global technical regulations.

24 Article 6.2.

25 Article 6.3.

26 NIA, para. 20.

27 See Article 4: Criteria for technical regulations.

28 The Executive Committee is constituted by the representatives of all Contracting Parties: Article 3.1.

29 NIA, para. 20.

addition, any pre-existing national standards must be listed on the “Compendium of Candidates”.³⁰ A standard is only listed on the Compendium if it is supported by a one-third vote of Contracting Parties, including the vote of Japan, the European Community or the US.³¹ The US has proposed a number of its own national standards as candidates for global technical regulations with nine candidate regulations currently registered.³²

2.18 Where elements of performance or design characteristics are not addressed by the UN/ECE Regulations or technical regulations in the Compendium of Candidates, any Contracting Party may submit a proposal to develop a new global technical regulation.³³ The process of determining whether the proposal is established as a global technical regulation includes an assessment of technical and economic feasibility and a comparative evaluation of the potential benefits and cost effectiveness of alternative standards.³⁴

2.19 The Committee was informed by representatives from DOTARS that:

the two treaties will continue to operate simultaneously and from here on they will keep close pace with each other. As soon as a regulation is ratified under the new agreement, there will be concerted efforts to align the regulations applying under the old treaty. So, looking forward to a point in time, we will reach a stage where the regulations would be identical except ... the older agreement will still provide for the mutual recognition of conformity assessment.³⁵

Adoption of global technical regulations

2.20 Once a global technical regulation is registered in the Global Register, Contracting Parties may choose to “adopt” the regulation into their domestic law. The establishment of a global technical regulation does not obligate a Contracting Party to adopt the regulation. Contracting Parties retain the right to choose whether or not to adopt a regulation:³⁶

30 See Article 5: Compendium of Candidate global technical regulations.

31 NIA, para. 21. See Article 5.2.2. and paragraph 7.1 or Article 7 of Annex B.

32 NIA, para. 18.

33 Article 6.3.

34 NIA, para. 22.

35 Mr Allan Jonas, *Transcript of Evidence*, 22 June 2007, p. 2.

36 NIA, para. 26.

any contracting party can basically veto a technical regulation. What that means for individual parties is that they are not likely to be exposed to any technical regulations that are not going to be acceptable to them simply because the rest of the contracting parties decided to go that way.³⁷

2.21 Each Contracting Party must notify the UN Secretary-General within 60 days of its decision whether or not to adopt a global technical regulation.³⁸ The Party must also notify the Secretary-General within 60 days if it decides to:

- Rescind or amend its decision to adopt a regulation;³⁹
- Accept products (i.e. components of vehicles), including to enter the market, that comply with a global technical regulation, without adopting the regulation itself;
- Cease accepting such products.⁴⁰

2.22 If a Contracting Party has not made a decision whether or not to adopt a global technical regulation within one year of its establishment in the Global Registry, the Party must provide a status report to the Secretary-General.⁴¹

Reasons for Australia to accede to the 1998 Global Agreement

2.23 According to the RIS:

The automotive industry has become Australia's single largest exporter of manufactured products (now leading other manufacturing industries such as pharmaceuticals, IT, telecommunications and textiles). During 2004, exports in automotive products totalled \$4.67 billion; comprising 3 per cent of Australia's total exports in goods and services. Automotive products now exceed a number of more traditional Australian exports such as wheat, wool and wine.

37 Mr Allan Jonas, *Transcript of Evidence*, 22 June 2007, p. 2.

38 Articles 7.2 and 7.3.

39 Article 7.6.

40 NIA, para. 28.

41 NIA, para. 29.

Automotive exports have been more than tripled in value over the decade from 1994 to 2004.⁴²

These trends have continued in 2005 ... Automotive exports totalled \$5.14 billion, an increase of 9 per cent over 2004.⁴³

Benefits for Australia's automotive industry

- 2.24 By reducing barriers to international trade and maximising trade facilitation, the proposed treaty action is intended to reduce costs and increase flexibility for Australia's automotive manufacturing industry.⁴⁴ In particular, the proposal will boost export market opportunities, especially for low volume "niche" products:⁴⁵

A particular example would be stretch limousine vehicles for Korea. We would normally have to jump through all sorts of hoops to get into the Korean market ... Korea has already acceded to this particular agreement. Under those agreements, at least the standards will be aligned. You can perhaps expect there will be some administrative arrangements that might be a further hurdle, but at least we have removed one of the hurdles.⁴⁶

- 2.25 Variations in standards represent an impediment to locally manufactured models being distributed overseas. For Australian exporters, the costs involved in re-designing, re-tooling and re-certifying to meet different international standards can be prohibitive. Costs for exporters will be lowered by reducing the need for unique Australian standards and by minimising the need for Australian products to be redesigned for global markets.⁴⁷
- 2.26 For locally made vehicles, variations between Australian standards and international standards represent an impediment to the use of overseas components. The choice of suppliers becomes limited to those that are able to comply with the Australian standards.⁴⁸ For imported vehicles, variations in standards represent an impediment

42 RIS, p. 4.

43 RIS, p. 5. See also NIA, para 13.

44 RIS, p. 14.

45 NIA, para. 7.

46 Mr Allan Jonas, *Transcript of Evidence*, 22 June 2007, p. 4.

47 NIA, para. 12.

48 RIS, p. 5.

to overseas models being distributed in Australia, as overseas vehicles would need to be manufactured specially for the Australian market.⁴⁹

- 2.27 All these variations in standards add to the costs of manufacture,⁵⁰ which can be prohibitive to Australian importers and exporters.⁵¹ By minimising differences in vehicle standards between countries, unnecessary costs from Australia's automotive industry would be removed.

Benefits for consumers

- 2.28 Globalisation of the automotive industry is good for the Australian consumer in that it is likely to provide earlier access to innovative products,⁵² more attractive products⁵³ and more affordable vehicles.⁵⁴ Members of the general public are likely to derive benefit from safer roads and cleaner air.⁵⁵

Benefits for Australia's international trade relations

- 2.29 By acceding to the Agreement, Australia will become an integral part of the global automotive community. Australia will have the opportunity to harmonise standards with those key industry players who are unable to participate in the 1958 Agreement, namely the US, Canada and China.⁵⁶
- 2.30 Further, the proposed treaty action will allow Australia to gain a voice in the development of vehicle standards at a global level. As a Contracting Party, Australia will have the right to vote on proposed global technical regulations and to submit its own proposals for the development and amendment of regulations.⁵⁷ Australian conditions

49 RIS, p. 5.

50 Variations in standards alone are estimated to add up to 5-10 per cent to the overall cost of producing a vehicle: RIS, p. 6.

51 RIS, p. 5.

52 A recently adopted feature is side and curtain passenger airbags: RIS, p. 5.

53 RIS, p. 3.

54 Real vehicle prices have declined by some 13 per cent over the decade 1994-2004. An "affordability index" developed by industry shows that Australian vehicles on average have become 75 per cent more affordable over the same period: RIS, p. 5.

55 RIS, p. 14.

56 RIS, p. 16.

57 NIA, para. 11.

and requirements would be able to be reflected in the evolution of international standards.⁵⁸

- 2.31 Accession to the Agreement is also consistent with Australia's trade liberalisation objective that national rules should not create unnecessary obstacles to international trade. Accession reflects the trade liberalisation goals of APEC generally, and its Bogor Declaration in particular, for free and open trade for Asia Pacific economies.⁵⁹

Implementation

- 2.32 As outlined above, the establishment of a global technical regulation does not obligate a Contracting Party to adopt the regulation. DOTARS proposes that Australia would initially not be subject to any specific global technical regulations.

Australian Design Rules

- 2.33 Australia maintains a federal scheme of safety and emission standards for motor vehicles, overseen by the Australian Transport Council. These uniform, national standards for vehicle design are known as Australian Design Rules (ADRs). ADRs are adopted under a joint Commonwealth, State and Territory decision-making process following industry and public scrutiny.⁶⁰ The Australian Government has already taken major steps towards harmonisation by aligning ADRs with existing international standards under the 1958 Agreement.
- 2.34 When Australia acceded to the 1958 Agreement, it did so subject to a reservation that it would not be bound by any of the Regulations annexed to the Agreement until further notice was given. The intention was for the individual Regulations to be first subject to thorough and public review by the Australia, State and Territory Governments, known as the ADR Review. To date, Australia has not formally adopted any of the UN/ECE Regulations, as it is still in the process of a detailed economic assessment of each vehicle standard. This approach was previously approved by the Committee:

58 RIS, p. 6.

59 RIS, p. 16.

60 NIA, para. 32.

It is ... a prudent step not to adopt all ECE Regulations at the outset. It is important that the Australian community be allowed to review all existing Australian Design Rules and all proposed ECE Regulations to ensure that our safety and emission rules are not diluted and that individual ECE Regulations are appropriate to Australian conditions.

The proposal that Australian Design Rules be aligned with ECE Regulations progressively and only after thorough and public review is sensible. It is important that this review process involve not just the relevant Commonwealth, State and Territory ministers but also involve as many motoring, consumer and industry related organisations as possible. Only by wide public involvement will community confidence in the outcome be engendered.⁶¹

- 2.35 The ADR Review involves a range of stakeholders and highlights the costs and benefits of aligning Australian standards with international standards. The ADR Review is expected to be completed in mid-2007. Around 33 ADRs out of a total of 61 will be aligned with the UN/ECE Regulations.⁶²

Retain unique Australian standards in certain conditions

- 2.36 At this stage, the remaining Australian ADRs will not be aligned with international regulations. This is because strict observance of harmonisation could actually impair local vehicle performance or produce unsafe conditions. Harmonisation must be balanced with situations in which unique Australian standards need to be maintained where they reflect real-world requirements and characteristics, such as driving conditions, operating constraints and customer preferences. In certain instances it is sensible for Australian standards to deviate from international standards if it is of net benefit to the Australian community.⁶³ For example, Australian highways are markedly different to European autobahns, and some international standards, such as extreme cold weather testing required by European conditions, are not applicable to Australian conditions.⁶⁴

61 JSCOT Report 25, paras 7.24-7.25.

62 RIS, p. 15.

63 RIS, p. 6.

64 RIS, p. 7.

- 2.37 Upon the 1998 Global Agreement entering into force, Australia would be able to choose whether or not to adopt one or more global technical regulations, either by implementing the regulation in a new ADR or amending an existing ADR.⁶⁵ The assessment of each global technical regulation would take the form of a Regulation Impact Statement. Assessment would also involve consultation with a range of stakeholders, such as industry members, peak bodies, motoring, consumer and industry associations and the Australian community, an extension of the current ADR Review.⁶⁶

Future Treaty Action

- 2.38 Any future amendment or addition to the text of the 1998 Global Agreement would constitute a separate treaty action and would be subject to the usual domestic treaty making process.⁶⁷

Adoption or amendment of global technical regulations

- 2.39 A question arises as to whether or not the adoption or amendment of a global technical regulation would constitute a separate treaty action which should be tabled in the Australian Parliament. The global technical regulations are legally discrete from the text of the 1998 Global Agreement, so their particular adoption or amendment would not constitute an amendment of the Agreement itself.⁶⁸
- 2.40 In early 2007, the Committee considered the issue of tabling tacit acceptance amendments in the Australian Parliament. It was decided that amendments to technical standards such as those made under the 1958 Agreement and the 1998 Global Agreement would not be captured by the tacit acceptance amendment proposal, meaning such amendments would not be required to be tabled in Parliament. This was because:
- Australia is free to accept or not accept variations to regulations,
 - such variations would not amend the Agreement itself, and

65 NIA, para. 33.

66 RIS, p. 19.

67 NIA, para. 42.

68 NIA, para. 38.

- tabling could be a potential administrative burden for both DOTARS and this Committee.

2.41 The Committee previously considered whether the UN/ECE Regulations under the 1958 Agreement would need to be tabled in Parliament as separate treaty actions:

We accept the Minister's proposition that each action to adopt an ECE Regulation should be considered to be implementation action within the overall framework of the treaty, rather than a separate treaty action. This acceptance is given on the proviso that community participation in the regulation review process is wide and effective and that the usual Regulation Impact Statement and parliamentary scrutiny opportunities are available for each regulatory action.

We also accept the Minister's offer to advise this Committee on each occasion that regulatory action is taken to align the Australian Design Rules with ECE Regulations.⁶⁹

2.42 DOTARS hence contends that global technical regulations should be treated in the same way as UN/ECE Regulations.⁷⁰ DOTARS also undertakes to advise the Committee whenever a global technical regulation is adopted by Australia.⁷¹ The Committee accepts both these statements and notes that, although not tabled as separate treaty actions, any changes made to the ADRs to bring them into line with the global technical regulations will still be subject to parliamentary scrutiny, as they will be tabled as disallowable instruments.

Entry into force and withdrawal

2.43 The treaty action is proposed to be undertaken as soon as practicable after the completion of domestic processes. The Agreement would enter into force for Australia 60 days from the date Australia deposits its instrument of accession with the UN Secretary-General.⁷²

⁶⁹ JSCOT Report 25, paras 7.27 - 7.28.

⁷⁰ NIA, paras 40-41.

⁷¹ NIA, para. 41.

⁷² NIA, para. 5. See Article 11: Entry into force.

- 2.44 The obligations under the Agreement will not apply to any of Australia's external territories, such as Norfolk Island, and Australia will lodge a reservation to this effect upon accession.⁷³
- 2.45 A Contracting Party may withdraw from the Agreement by notifying the UN Secretary-General.⁷⁴ Withdrawal takes effect twelve months after receipt of notification.⁷⁵

Costs

- 2.46 The only costs arising from acceding to the 1998 Global Agreement are those relating to the administration of Australia's role within the Agreement. This primarily covers attendance at regular meetings of the administering body – attendance by DOTARS officials would be met from the Department's existing budget.⁷⁶

Consultation

- 2.47 Australia's scheme for motor vehicles is oversighted by a Ministerial Council, the Australian Transport Council. The relevant consultative forum is the Technical Liaison Group (TLG), which holds regular consultations between Australian jurisdictions, industry and consumer bodies on the development of motor vehicle standards. TLG members strongly supported the original decision to accede to the 1958 Agreement, and also strongly support the proposed treaty action.⁷⁷
- 2.48 Representatives from DOTARS informed the Committee that:
industry is fully supportive of this proposal, as it opens up a whole new raft of possibilities.⁷⁸

73 NIA, para. 4. See Article 15: Extension of Agreement to territories.

74 Article 12.1.

75 Article 12.2.

76 NIA, para. 34.

77 RIS, p. 17; NIA (Consultation), paras 1-7.

78 Mr Allan Jonas, *Transcript of Evidence*, 22 June 2007, p. 2.

Conclusion and Recommendation

- 2.49 The Committee recognises the advantages for both the Australian automotive industry and Australian consumers to be gained from accession to the 1998 Global Agreement. Accession to the Agreement would also enhance Australia's capacity to influence the development and adoption of global technical regulations.
- 2.50 The Committee considers it sensible that Australia continue to align its standards with currently available international standards under the 1958 Agreement in accordance with the ADR Review. Similar arrangements should apply for the 1998 Global Agreement. The processes for adopting ADRs provide an open and transparent means of ensuring that international standards are appropriate to Australian conditions and expectations, including public and Parliamentary scrutiny.

Recommendation 1

The Committee supports the Agreement concerning the Establishment of Global Technical Regulations for Wheeled Vehicles, Equipment and Parts which can be Fitted and/or be Used on Wheeled Vehicles and recommends:

- **that binding treaty action be taken.**
- **that a declaration be issued advising that the Australian Government will not be bound by any of the Regulations annexed to the Agreement until further notification is given.**

- 2.51 The Committee accepts the proposition by DOTARS that each action to adopt a global technical regulation should be considered to be an implementation action with the overall framework of the treaty, rather than a separate treaty action. On this basis, adoptions or amendments to global technical regulations would not require tabling in the Australian Parliament as separate treaty actions. However, regulatory amendments to implement global technical regulations would still be subject to parliamentary scrutiny when they are tabled as disallowable instruments.

- 2.52 We also accept the offer by DOTARS to advise this Committee on each occasion that a global technical regulation is adopted by Australia and made an Australian Design Rule.