



**Australian Government**

**Department of Infrastructure and Transport**

**Regulation Impact Statement for  
The Harmonisation of the Australian Design Rules  
(ADR-Harmonisation)**

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## **Contents**

Executive Summary .....	3
1 Background .....	4
1.1 Harmonisation of the ADRs with UNECE Regulations .....	4
1.2 Australia’s Dual Standards System .....	8
1.3 The Problem .....	9
1.3.1 The Extent of the Problem .....	9
1.4 Objective .....	10
2 Options .....	10
2.1 Option 1: Business as usual .....	10
2.2 Option 2: Include Flexible References to UNECE Regulations within the ADRs ..	11
2.3 Option 3: Harmonisation ADR .....	11
2.4 Option 4: Delete the ADRs .....	11
3 Analysis .....	11
3.1 Option 1: Business as Usual .....	11
3.2 Option 2: Include Flexible References to UNECE Regulations within the ADRs ...	11
3.3 Option 3: Harmonisation ADR .....	12
3.4 Option 3: Delete the ADRs .....	12
4 Impacts .....	13
4.1 Cost to Business .....	13
4.1.1 Option 2: Include Flexible References to UNECE Regulations within the ADRs	13
4.1.2 Option 3: Harmonisation ADR .....	14
4.2 Cost to Government .....	14
4.2.1 Option 2: Include Flexible References to UNECE Regulations within the ADRs	14
4.2.2 Option 3: Harmonisation ADR .....	14
4.3 Benefit to Business .....	15
4.3.1 Option 2: Include Flexible References to UNECE Regulations within the ADRs	15
4.3.2 Option 3: Harmonisation ADR .....	16
4.4 Benefit to Government .....	16
4.4.1 Option 2: Include Flexible References to UNECE Regulations within the ADRs	16
4.4.2 Option 3: Harmonisation ADR .....	16
5 Discussion .....	16
6 Consultation .....	18
7 Conclusions and Recommendations .....	19
8 Implementation and Review .....	19
References .....	21
APPENDIX 1 .....	23
APPENDIX 2 .....	24
APPENDIX 3 .....	26

## **Executive Summary**

The Australian community has derived substantial benefits from an increasingly globalised local vehicle industry, providing a greater choice of safe vehicles. Exported vehicles and parts have also become important to the competitiveness of Australian vehicle and component manufacturers.

It has been a long term Australian Government policy to align the national standards for road vehicles in Australia, the Australian Design Rules (ADRs), with United Nations Economic Commission for Europe (UNECE) regulations. The UNECE is acknowledged as the peak international body for automotive standards, reflected in the gradual reduction in road trauma and the continuing improvements in the crashworthiness of vehicles worldwide.

Australia has acceded to two United Nations Agreements that deal with UNECE regulations. These are the 1958 Agreement and the 1998 Agreement. Under the 1958 Agreement, a Contracting Party can apply regulations. Applying a regulation gives development and voting rights to the Contracting Party on amendments to regulations. However, when a regulation is applied, the Party must maintain alignment of its domestic standards with the regulation, at least in terms of imported vehicles. Australia has applied 29 regulations and will likely apply more in the future. The problem is that the administrative burden of maintaining alignment of the ADRs is high and is set to increase even more into the future.

The Objective under this Regulation Impact Statement (RIS) is to ensure Australia's compliance with the 1958 Agreement by maintaining alignment between ADRs and applied UNECE regulations in an administratively efficient manner. The RIS considered four options to address this Objective: business as usual (Option 1); including flexible references to UNECE regulations within each relevant ADR (Option 2); writing a "Harmonisation ADR" (Option 3); and deleting the ADRs (Option 4).

The RIS found that Option 2 and Option 3 would meet the Objective. Option 2 proposed amending the ADRs to state that any regulation referenced as an alternative standard could be the version(s) stated, or the version "in force from time to time". Currently, only the version(s) stated are allowed. Option 3 proposed a separate legislative instrument, a "Harmonisation ADR", which would achieve the same outcome as Option 2 automatically for all ADRs that reference applied regulations.

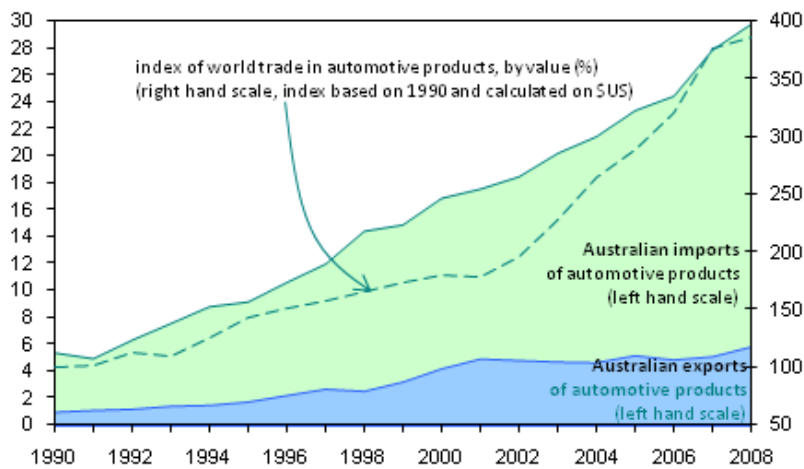
Either amending each ADR separately to include flexible references or implementing the Harmonisation ADR would provide a more efficient way to maintain alignment of the ADRs with applied regulations. Neither option would impose additional costs on businesses or government; rather there would be substantial benefits received in terms of reduced costs and increased time efficiency. While both options would meet the Objective, the Harmonisation ADR would be more efficient, as it would only need to be legislated once. Therefore, the Harmonisation ADR under Option 3 was recommended.

## 1 Background

### 1.1 Harmonisation of the ADRs with UNECE Regulations

The automotive industry is global in nature. Manufacturers perform their operations; like research and development, engineering and design, component production and assembly; without regard to borders. Increasingly, vehicle manufacturers are relying on international suppliers. These suppliers produce a wide range of standardised and interchangeable components and platforms. In recent years, world trade in automotive products has surged. Figure 1 shows this trend.

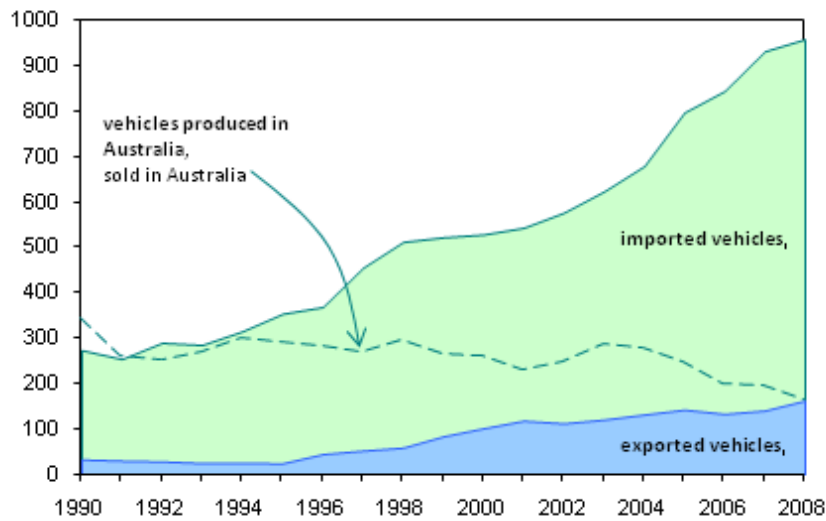
**Figure 1: The increasing world trade in automotive products (\$b)**



Source 1: DITR Key Automotive Statistics 1999-2008, WTO statistics database

The Australian community benefits from this globalised vehicle industry. Imports have become more important to Australian consumers, and exports have become more important to Australian vehicle and component manufacturers. Figure 2 shows this trend.

**Figure 2: The increasing Australian trade in vehicles (\*000 vehicles/year)**



Source 2: DITR Key Automotive Statistics 1999-2008, WTO statistics database

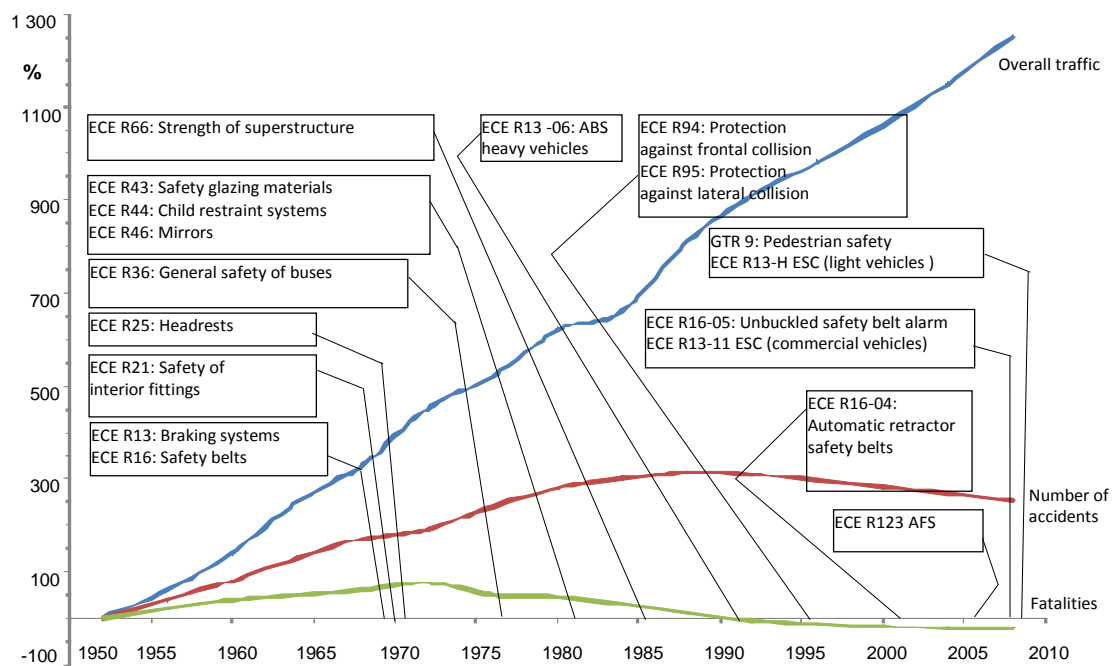
National standards can vary from country to country. Fragmented national vehicle standards can impose substantial costs on industry. In many cases, variations in the standards merely set out different ways of achieving the same outcome. That is, the standards may merely be different, not necessarily better or worse. In general, the use of different technical standards for like products can impose barriers to international trade.

In Australia, the national standards for vehicles are the Australian Design Rules (ADRs). The Australian Government administers these standards for new vehicles under the *Motor Vehicle Standards Act 1989* (C'th) (MVSA). The First Edition ADRs appeared only in draft form. The Second Edition ADRs came into effect in 1969. They were implemented through state and territory legislation. The Second Edition ADRs adopted many of the Society of Automotive Engineers (SAE) recommended practices for test procedures and performance requirements. They were therefore similar to United States requirements.

The Commonwealth administered the Third Edition ADRs in the late 1980s. There were major recommendations related to the development of the Third Edition of ADRs. One of these recommendations was that the ADRs should be harmonised with international standards as much as possible. The policy to harmonise was in line with Australia's membership of the World Trade Organisation and participation in the Agreement on Technical Barriers to Trade (TBT). Today this policy is a feature of the Council of Australian Governments (COAG) principles and guidelines for assessing regulatory proposals. COAG represents the Australian Government and all state and territory governments. The WTO and COAG require the adoption of international standards, unless there are compelling reasons not to do so (COAG, 2007). The WTO identifies UNECE regulations as the peak international regulations for vehicle safety. Therefore, Australia is gradually harmonising the ADRs with these regulations. Between 1988 and 2007, the percentage of harmonised ADRs has increased from 60 per cent to 80 per cent. This percentage is still rising.

Figure 3 shows the contribution of UNECE regulations to road safety in Europe. It shows that, despite an increase in the number of vehicles on the road, there is a reduction in road trauma. There is a similar trend in Australia. Between 1970 and 2008, there has been a threefold increase in registered motor vehicles as well as sustained population growth. Despite this, the annual road fatality rate has declined from 30.4 to 6.6 deaths per 10,000 people.

**Figure 3: Vehicle safety and the UNECE regulations**

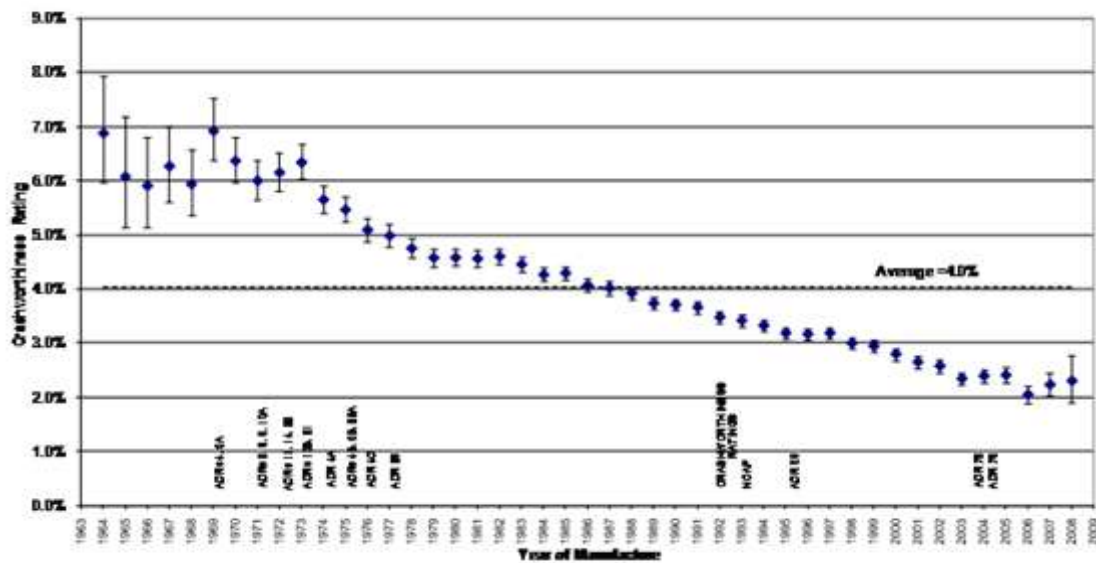


Source 3: ECE/TRANS/WP.29/2010/87, World Forum for the Harmonisation of Vehicle Regulations, Geneva 2010<sup>1</sup>

Figure 4 shows the changes in vehicle crashworthiness since 1964. The effectiveness of regulating passive safety performance while using other initiatives, like industry codes of practice and consumer information programs, is evident in the continuing improvements seen. The most notable consumer information program is the Australasian New Car Assessment Program (ANCAP).

<sup>1</sup> The UNECE regulations shown have either been incorporated into the ADRs or will be considered for incorporation.

Figure 4: Vehicle crashworthiness in Australia



Source 4: Vehicle safety ratings estimated from Police reported crash data: 2010 update, MUARC, 2010. Each estimate is expressed as a percentage, representing the number of drivers killed or admitted to hospital per 100 drivers involved in a tow-away crash.

The World Forum for Harmonisation of Vehicle Regulations (WP.29) is a working party responsible for developing UNECE regulations. Until 2000, Australia attended WP.29 meetings with the formal status of an invitee with interest in the subject matter under discussion. In 2000, Australia acceded to the Agreement concerning the Adoption of Uniform Conditions of Approval and Reciprocal Recognition of Approval for Motor Vehicle Equipment and Parts of March 1958 (the 1958 Agreement) (ECE 2002).

The 1958 Agreement provides the framework for harmonisation of automotive standards and mutual recognition of approvals, based on an agreed set of international standards. Acceding to the 1958 Agreement gave Australia a vote on development and adoption of *new* UNECE regulations. At the time of accession, Australia did not “apply” any UNECE regulations. “Applying” regulations means Contracting Parties have voting rights on *amendments* to regulations. In addition, a Contracting Party can grant approvals for products to regulations. Other countries must recognise these approvals as evidence of compliance.

With Australia having acceded to the 1958 Agreement, the Joint Standing Committee on Treaties (JSCOT) agreed that notifications to the UN regarding applying regulations were an “implementation matter” and not a “treaty matter”<sup>2</sup>. Therefore, the process of applying a regulation is relatively straightforward. In 2009, the Department of Foreign Affairs and Trade (DFAT) initiated a process to apply 29 UNECE regulations. This was completed in June 2010, with the lodging of the relevant depository notices.

<sup>2</sup> The 1958 Agreement was considered in the JSCOT Report 25, 27 September 1999, pages 53-58. Australia acceded with effect from 25 April, 2000.

APPENDIX 2 lists these regulations and their corresponding ADRs.

Regulations are applied under Article 1 of the Agreement. Where a regulation is applied, a Contracting Party must maintain alignment of its domestic standards with the regulation. As a minimum, the regulation needs to be an allowable alternative standard to any domestic requirements.

Australia operates a dual standards system. This means that applying a regulation need not increase the stringency of the corresponding ADR. Section 1.2 explains this further.

## **1.2 Australia's Dual Standards System**

Australia has a dual standards system for new motor vehicles. An ADR may directly specify technical and performance requirements, as well as allow alternative standards to be met instead. The alternative standards are typically the same UNECE regulations as those directly specified.

Forty-seven ADRs have been fully harmonised with UNECE regulations. Fully harmonised means that a manufacturer only needs to provide evidence of a UNECE approval, or a valid test to the requirements of a regulation, in order to demonstrate compliance with an ADR. Seven ADRs have been partially harmonised with UNECE Regulations. These ADRs are harmonised, except that there are some additional Australian requirements that must also be met.

Where an ADR is harmonised, the base text of the UNECE regulation forms the main text of the ADR. The ADR also references the regulation as an allowable alternative standard. The alternative standard is amended periodically to add in later versions of the UNECE regulations. Because the earlier versions remain in place, this does nothing more than increase the choice for the manufacturer. There is no increase in stringency.

Any amendment that also removes these earlier versions would increase the stringency of the ADR. This would be a major undertaking within the ADR development forum. The ADR series would be raised a level and vehicle manufacturers would then need to re-certify their models; i.e. ADR 1/00 would become ADR 1/02.

It is important to note that, under the dual standards systems, applying UNECE regulations does not affect the stringency of the ADRs.

Australia must meet some requirements before applying a UNECE regulation. Firstly, the ADR needs to be based on the regulation. Secondly, the ADR needs to reference the latest version of the regulation as an acceptable alternative. After applying the regulation, the process for developing and mandating ADRs continues as usual. The process involves raising the revision status of the ADRs if the requirements become more stringent. It also involves amending the ADRs regularly to allow the latest regulations as alternative standards.



If an applied UNECE regulation is amended and is not considered suitable for adoption in Australia, Australia is not obliged to accept products to that amendment series. Australia could vote against the amendment or could cease applying the regulation. In terms of voting against the amendment, Article 12, paragraph 2 of the 1958 Agreement states that:

“An amendment to a Regulation will be considered to be adopted unless, within a period of six months from its notification by the Secretary-General, more than one-third of the Contracting Parties applying the Regulation at the time of notification have informed the Secretary-General of their disagreement with the amendment. If, after this period.....the Secretary-General shall as soon as possible declare the amendment as adopted and **binding upon those Contracting Parties applying the Regulation who did not declare themselves opposed to it**”.  
 (ECE 2002)

However, the general expectation under the Agreement is that Contracting Parties will accept all amendments or elect to cease applying the regulation. In terms of ceasing to apply a regulation, Article 1, paragraph 6 of the 1958 Agreement states that:

“Any Contracting Party applying a Regulation may at any time notify the Secretary-General, subject to one year's notice, that its administration intends to cease applying it.” (ECE 2002)

### 1.3 The Problem

Maintaining alignment of the ADRs with their international counterparts is resource intensive. Australia has applied 29 UNECE regulations and will likely apply more in the future to improve international trade. The administrative burden of maintaining alignment of the ADRs will therefore increase. There is the risk that, if Australia does not maintain this alignment, it may be in breach of the 1958 agreement.

#### 1.3.1 The Extent of the Problem

Currently, 50 ADRs together reference some 65 UNECE regulations within their text as allowable alternative standards. Since 1980 there have been over 700 amendments made to these UNECE regulations, averaging 25 per year. The rate of amendments has increased in recent years, with 56 amendments in 2006, 73 in 2007 and 75 in 2008. It is likely that this rate will continue to increase. This is primarily because of concern about the environmental impacts and the safety of the growing number of vehicles worldwide. It is also because of the rapid growth of new vehicle technology as well as the increasing membership of countries to the WP.29 forum.

With the rate of amendments increasing, the administrative burden of maintaining alignment of the ADRs with UNECE regulations increases. This is particularly important for ADRs that reference applied UNECE regulations, because, for applied regulations, this alignment is a requirement under the 1958 Agreement.

When an applied UNECE regulation is amended, the Australian Government must, as a minimum:

1. table a working paper with the Technical Liaison Group (TLG) (refer to Section 6 for further details) to seek endorsement for the proposed ADR amendment;

2. negotiate the need, or otherwise, for a RIS with the OBPR;
3. consolidate TLG feedback to establish a final agreed position;
4. consult, where appropriate, with the Transport and Infrastructure Senior Officials' Committee and/or the Standing Council on Transport and Infrastructure (TISOC/SCOTI);
5. provide a draft regulatory package for consideration by the Parliamentary Secretary of Infrastructure and Transport, consisting of a ministerial brief, an ADR amendment determination, an ADR compilation, an explanatory statement and a RIS (if required);
6. table the package in both Houses of Parliament within 15 sitting days of being made and if not disallowed by either House then;
7. lodge the package on the Federal Register of Legislative Instruments, including a compilation of the ADR; and
8. update the package on the departmental website and distribute it by CD to all ADR subscription holders.

This process can be lengthy. It also consumes significant governmental and business resources, especially given the rate of amendments current being carried out by WP29. Under the 1958 Agreement, there is typically a six to eight month period after the Contracting Parties vote on a UNECE amendment before the regulation comes into force. The above process must be completed within this time for Australia to meet its obligations under the 1958 Agreement. Therefore, there needs to be a more efficient means of maintaining alignment of the ADRs with applied UNECE regulations.

## **1.4 Objective**

The Objective is to ensure Australia's compliance with the 1958 Agreement by maintaining alignment between ADRs and applied UNECE regulations in an administratively efficient manner. Australia's decision to apply regulations is not considered, as this decision has already been made and implemented.

## **2 Options**

### **2.1 Option 1: Business as usual**

Under this option, Australia would continue to apply UNECE regulations under the 1958 Agreement. The ADRs would be developed in the normal way. When an applied UNECE regulation is amended, the Australian Government must complete a full consultation process. This ensures alignment of the ADR and, therefore, compliance with treaty obligations.

## **2.2 Option 2: Include Flexible References to UNECE Regulations within the ADRs**

Under this option, a new development process would incorporate the use of flexible references for any ADR that references an applied UNECE regulation.

The ADRs would be amended to state that any regulation referenced as alternative standard could be the version(s) stated, or the version(s) “in force from time to time”. Current arrangements allow only the version(s) stated.

## **2.3 Option 3: Harmonisation ADR**

Under this option, a separate legislative instrument – called “Australian Design Rule – Harmonisation” – could be written. The instrument would achieve the process outlined in Option 2 automatically for all ADRs that reference applied regulations.

## **2.4 Option 4: Delete the ADRs**

Under this option, vehicles would no longer be required to continue to comply with the ADRs. This would involve repealing the ADRs and leaving the setting of acceptable safety performance to the market.

# **3 Analysis**

## **3.1 Option 1: Business as Usual**

Under this option, Australia would continue to apply UNECE regulations. Australia would be able to vote on amendments to applied regulations and would also be able to grant product approvals to these regulations. Therefore, Australia would be able to take advantage of the mutual recognition arrangements offered by the Agreement.

However, when there is an amendment to a UNECE regulation, the Australian Government needs to complete a full consultation process in order to maintain alignment of the relevant ADRs (outlined in Section 1.3.1). The process is lengthy and resource intensive; consuming significant governmental and business resources. The Objective of the proposal is to ensure Australia’s compliance with the 1958 Agreement by maintaining alignment of the ADRs and applied regulations in an administratively efficient manner. This option does not meet this Objective and therefore this RIS does not consider it further.

## **3.2 Option 2: Include Flexible References to UNECE Regulations within the ADRs**

Under this option, each ADR that refers to an applied regulation as an alternative standard would be amended to allow the version(s) stated or any version(s) “in force from time to time”. These references would become flexible. They would always allow the latest version of the regulations, no matter how often WP.29 amends them.

If Australia ceases to apply a regulation, the relevant ADR could be amended back to a static reference that does not call up the latest regulation.

### **3.3 Option 3: Harmonisation ADR**

Under Option 2, all ADRs that reference the 29 applied regulations would need amending. Any time another regulation is applied, or any time a regulation ceases to be applied, then the ADRs would again need amending.

Option 3 proposes writing a separate legislative instrument to perform this function automatically for all ADRs that reference applied regulations. It would achieve this by prescribing the following:

A new vehicle or a vehicle component is taken to comply with an ADR if:

- (a) the ADR specifies a UNECE regulation as an alternative standard;
- (b) Australia applies the UNECE regulation; and
- (c) the new vehicle or vehicle component complies with the UNECE regulation specified as an alternative standard or the version in force from time to time.

APPENDIX 3 gives the full form of this proposed legislative instrument. It has the title “Australian Design Rule – Harmonisation”, as its purpose is to streamline the harmonisation process between ADRs and UNECE regulations. This RIS refers to it as the “Harmonisation ADR”.

If Australia ceases to apply a regulation, the Harmonisation ADR would automatically cease to invoke the flexible references provision for that ADR. The ADR may then require amending so that it references the latest regulation that was covered by the Harmonisation ADR.

It is important to note that the Harmonisation ADR would not replace the normal developing and mandating of ADR requirements. It operates through the alternative standards path of the ADRs. An increase in the stringency of an ADR only occurs if the ADR itself is amended. The normal ADR development processes would then take place.

Compared with business as usual, the Harmonisation ADR would provide a more efficient way to maintain alignment of the ADRs with applied regulations. As with Option 2, this option meets the Objective and so this RIS considers it in further detail.

### **3.4 Option 3: Delete the ADRs**

As Australian Government regulations, the ADRs are subject to full review every 10 years. This ensures that they remain relevant, cost effective and do not impede the importation of safer vehicles and components.

An earlier interdepartmental review considered the issue of whether to retain or delete the ADRs or the MVSA. The Government received a final report (the Review Report) in August 1999 and released its response on 8 May 2000. At the time the Government recommended that the ADRs be retained as they contribute to the overall safety of road users.

To operate effectively, the 1958 Agreement needs Contracting Parties to have a type approval system that can implement regulations at a domestic level. Australia's vehicle certification system is a type approval system. The "type" of vehicle refers to the design of that make and model. If a certain "type" of vehicle is tested and complies with safety, anti-theft and emissions standards, then all other vehicles of the same type will be taken as also complying (Department of Infrastructure and Transport 2011). In Australia, this type approval system is specified within the MVSA and the ADRs are national standards under the MVSA.

Where a Contracting Party has a domestic vehicle industry, such as in Australia, the type approval system must set standards for both locally produced and imported vehicles. If a vehicle meets the latest version of an applied regulation, there is an obligation to accept that vehicle as meeting any national requirement relating to the regulated area. For Australia, the national requirements (the ADRs) could simply be set to be the UNECE regulations and in fact, Government policy is to align the ADRs with UNECE regulations wherever possible. However, in many instances there are implementation issues unique to the local industry, such as timing of regulations or some need for adjustment for locally developed and configured vehicles. For example, the availability of test vehicles and/or test facilities meeting UNECE requirements is different for Australia when compared with major markets such as Europe or Japan. In addition, there may be alternative designs used, or test methods long established by Australian manufacturers (such as for ADR 84/00 Front Underrun Impact Protection or ADR 14/02 Rear View Mirrors).

The result is that there is still a need for a dual standard system that can respond to these local adjustments through the ADR development process.

This option does not meet the Objective and so this RIS does not consider it further.

## **4 Impacts**

This section evaluates the impacts of Option 2 and Option 3 compared with business as usual arrangements (Option 1).

### **4.1 Cost to Business**

#### **4.1.1 Option 2: Include Flexible References to UNECE Regulations within the ADRs**

Option 2 would impose no additional cost to business compared with business as usual arrangements. The addition of a flexible reference as alternative standards within the ADRs would give businesses the choice of meeting the ADR as before, or meeting the latest version of the alternative standard.

#### 4.1.2 Option 3: Harmonisation ADR

The Harmonisation ADR would also give businesses a wider choice of standards. As with Option 2, Option 3 would impose no additional costs on businesses compared with current arrangements, even if the businesses are unaware or uninterested in making use of the legislative instrument.

### 4.2 Cost to Government

#### 4.2.1 Option 2: Include Flexible References to UNECE Regulations within the ADRs

There would be a minor administration cost to the Australian Government for implementing Option 2. This cost, however, would actually be less than the costs associated with amending the ADRs under current arrangements. Therefore, there would be an overall cost reduction: effectively, a net benefit.

The WTO has identified UNECE regulations as the preferred international regulations for vehicle safety. The standards community acknowledges the later versions of these regulations as being improvements over earlier versions. Because of this there would be no increases in road trauma, vehicle theft or emissions and therefore no increases in associated costs. This is demonstrated in paragraph 1(a) of the Terms of References for the UNECE development forum. It states that WP.29 shall:

“Initiate and pursue actions aiming at the harmonisation or development of technical regulations or amendments to such regulations which may be accepted world-wide, and **which are directed at improving vehicle safety, protecting the environment, promoting energy efficiency and anti-theft performance**, providing uniform conditions for periodical technical inspections and strengthening economic relations world-wide, according to the Objectives laid down in the respective Agreements.” (ECE, 2002)

Therefore, under Option 2, only regulations that are considered the most recent international best practice are offered as alternatives to the ADRs. Overall, Option 2 would not impose additional costs on businesses, the Australian Government or the community.

#### 4.2.2 Option 3: Harmonisation ADR

As with Option 2, Option 3 would not impose additional costs on government. Option 3 would also offer the latest versions of applied UNECE regulations as alternative standards and, as noted, the latest regulations are considered the most recent international best practice.

Compared with Option 2, the administration costs for implementing Option 3 would actually be less, because Option 3 saves amending each ADR separately. Therefore, the overall cost reductions compared with current arrangements would be greater for Option 3 than for Option 2.

### 4.3 Benefit to Business

#### 4.3.1 Option 2: Include Flexible References to UNECE Regulations within the ADRs

There would be substantial benefits to businesses under Option 2. Option 2 would have a positive effect on trade facilitation. Including flexible references to UNECE regulations within the ADRs would provide certainty to vehicle suppliers and importers that the ADRs would continue to be aligned with the latest regulations.

Under normal circumstances, importers cannot bring vehicles into Australia that meet versions of the UNECE regulations that are not yet referenced as alternative standards within the ADRs. This issue is especially important to Australia as it imports around 85 per cent of its new vehicles. A large percentage of these are built to UNECE regulations.

Under current arrangements, the time between a proposal to amend an ADR (in order to align with a new revision of a UNECE regulation) and when the amended ADR comes into force can be significant. For example, ADR 50/00 – Front Fog Lamps was amended in 2010. ADR 50/00 references UNECE R 19. At the time, the ADR listed the 02 version of UNECE R 19 as the latest acceptable alternative regulation. However, the regulation itself had previously been amended the 03 version.

In January 2010 the proposal to amend ADR 50/00 to allow UNECE R 19/03 as an alternative standard was taken through the ADR amendment process. The amended ADR came into force in June 2010. Although this was a relatively simple amendment, there were some five months between when it was proposed to amend ADR 50/00 and when the amended ADR came into force. During this time, vehicles meeting R 19/03 could not be supplied to the Australian market without invoking other interim administrative mechanisms, inconveniencing vehicles importers, suppliers and consumers.

In a second example, ADR 8/01 – Safety Glazing Material was also amended in 2010 to incorporate a later version of UNECE R 43/00. The amendment was more complex than for ADR 50/00 and as a result was discussed by the TLG over two sessions. The amended ADR came into force 11 months after the proposal. Again this disadvantaged vehicle importers, suppliers and consumers. In the interim, vehicles meeting the latest version of UNECE R 43/00 could not be supplied to the Australian market in the normal way.

In Australia, passenger motor vehicles are the second largest import item and the 12<sup>th</sup> largest export item. The top five countries that bring passenger cars into Australia are Contracting Parties to the 1958 Agreement. The high level of harmonised standards under Option 2 would benefit these countries when supplying to the Australian market.

Only one of the top three countries that receive Australian exports of passenger cars is a Contracting Party to the 1958 Agreement. However, the top country (Saudi Arabia) is an active member of the UNECE WP.29 and allows its imported vehicles to meet UNECE regulations.

A recent survey of Australia's certification system showed that, under the alternative standards approach, over 50 per cent of submissions were already opting for a UNECE approval path. This is further reason to ensure harmonisation between the ADRs and UNECE regulations.

#### 4.3.2 Option 3: Harmonisation ADR

The benefits received under Option 2 would also be received under Option 3. An additional benefit relating to Option 3, however, is that importers and manufacturers could be confident that the alignment between the ADRs and UNECE regulations would be available immediately. This is because the Harmonisation ADR would update ADRs automatically to incorporate the latest regulations. These updates would no longer be subject to the resources allocated by the Australian Government, state and territory governments, TLG, TISOC or SCOTI.

### 4.4 Benefit to Government

#### 4.4.1 Option 2: Include Flexible References to UNECE Regulations within the ADRs

There would be substantial benefits to the Australian Government under Option 2. Option 2 would reduce the consumption of administrative resources within the Australian Government as the ADRs would not need continual updating. This would also reduce the consumption of resources within the TLG. The TLG consists of the Australian Government, state and territory governments and agencies, manufacturers, and user groups. All of these organisations would therefore benefit under Option 2.

Option 2 is also in line with the past decisions of the Standing Committee on Transport and the Australian Transport Council. These groups play an important part of the consultative arrangements. In 2005, they agreed that an abridged process should be employed to implement or amend ADRs where this involves increased alignment with UNECE regulations.

#### 4.4.2 Option 3: Harmonisation ADR

The benefits that relate to Option 2 also relate to Option 3. However, there are additional benefits that Option 3 would offer. Option 3 would require even fewer Australian Government and TLG resources. This is because writing the Harmonisation ADR avoids amending each ADR separately to include flexible references. It only needs to be legislated once.

## 5 Discussion

This RIS considered ways to maintain the alignment between ADRs and applied UNECE regulations efficiently, which would support Australia's compliance with the 1958 Agreement.

Four options were considered: business as usual (Option 1); including flexible references to UNECE regulations within the ADRs (Option 2); writing a Harmonisation ADR (Option 3);



and deleting the ADRs (Option 4). The options were examined in Section 3 and it was found that only Option 2 and Option 3 would meet the Objective.

Option 1 would require a full consultation process whenever an applied UNECE regulation is amended. This process would ensure alignment of the relevant ADRs; however, it is lengthy and resource intensive. The inefficiency of this process means Option 1 would not meet the Objective.

Option 4 was previously rejected in the last review of the MVSA in 1999. The UNECE system only deals with standards for imported vehicles, not domestically produced vehicles and not type approval of whole vehicles. For countries with a local industry such as Australia, a dual standards system utilising ADRs is still needed. Option 4 would not meet the Objective.

Under Option 2, an ADR that references an applied regulation as an alternative standard would be amended to allow the version(s) stated, or the version(s) that are “in force from time to time”. This would make the references flexible. They would always allow for the latest UNECE regulation. Alternatively, Option 3 considers writing a separate legislative instrument, known as the Harmonisation ADR, to perform this automatically for all ADRs that reference applied regulations. The Harmonisation ADR could also be written to disengage automatically should a UNECE regulation no longer be applied.

Option 2 and Option 3 were assessed for impacts on businesses and the Australian Government in relation to business as usual arrangements (Option 1). Option 2 would not increase costs for businesses. Australia’s dual standards system mandates a lower limit standard (the base requirements) and allows for an upper limit standard (the latest UNECE regulation). Option 2 would simply offer manufacturers a wider choice of standard. For each applied regulation, a manufacturer could choose to comply with either a base ADR requirement or a version of the applied UNECE regulation up to and including the latest. The same applies for Option 3.

Option 2 would also impose no additional costs on the Australian Government. There would be a minor administration cost for implementing this Option, but overall this cost would be less than the costs associated with amending the ADRs under Option 1. Therefore, there would actually be a cost reduction. There would be no increases in road trauma, vehicle theft or emissions and therefore no increases in associated costs. This is because the latest UNECE regulations have been acknowledged as improving with each new version. It is also noted that should Australia not wish to allow a particular change to a UNECE regulation that has been voted on internationally, it has the option of withdrawing from applying that regulation.

For the same reasons as for Option 2, Option 3 would not impose additional costs on the Australian Government. Compared with Option 2, the administration costs for implementing Option 3 would be even less because it saves amending each ADR separately. The cost reductions for the Australian Government would therefore be greater.

Option 2 would provide substantial benefits for businesses. Australian importers cannot bring in vehicles that meet versions of UNECE regulations not yet referenced as alternative standards within the ADRs. This issue is especially important considering Australia imports around 85 per cent of its new vehicles, and most of these are built to UNECE regulations. Under Option 2, importers and suppliers could be confident that the ADRs are aligned with the latest UNECE regulations. Option 2 would therefore have a positive effect on trade facilitation.

The benefits to businesses received under Option 2 would also be received under Option 3. In addition, if the Harmonisation ADR is adopted, importers and suppliers could be confident that this alignment would be available immediately and not subject to any fluctuations in Australian Government or state and territory government resources and priorities.

Option 2 would also provide substantial benefits to the Australian Government and the domestic consultative forums. It would reduce the consumption of administrative resources within the Australian Government and consultative forums in not having to update the ADRs continually and not having to use the full consultation process for each amendment. It would allow greater focus to be placed on the more productive task of significant revisions to ADRs or the consideration of new ADRs or other government interventions. Under Option 3, implementing the Harmonisation ADR would require even fewer Government resources because, as noted, it saves amending each ADR separately.

## **6 Consultation**

Development of the ADRs under the MVSA is the responsibility of the Vehicle Safety Standards Branch of the Department of Infrastructure and Transport. It is carried out in consultation with representatives of the Australian Government, state and territory governments, manufacturing and operating industries, road user groups and experts in the field of road safety.

The Department undertakes public consultation on significant proposals. Under Part 2, Section 8 of the MVSA the Minister may consult with state and territory agencies responsible for road safety, organisations and persons involved in the road vehicle industry and organisations representing road vehicle users before determining a design rule.

The Technical Liaison Group (TLG) has for a number of years been the consultative committee for advising on ADR developments. It includes members of the Australian Government, state and territory governments, the vehicle manufacturing and operating industries and consumer groups. Although the TLG has now been reconstituted and positioned under a higher level Strategic Vehicle Safety and Environment Group (SVSEG), its role in ADR development will continue in a similar way to before.

The full membership of TLG is shown at

APPENDIX 1. The proposal to apply UNECE regulations has been discussed on an ongoing basis within the TLG (for example at the 34<sup>th</sup> and 35<sup>th</sup> meetings). No concerns were raised prior to or following the application of 29 UNECE regulations in June 2010. The group was broadly supportive of the direction being taken. The proposed new development arrangements for ADRs that reference applied regulations – including a Harmonisation ADR (Option 3) have been discussed favourably within the TLG (at the 35<sup>th</sup> meeting). A draft RIS was provided to SVSEG and TLG members in August 2011 and no objections were subsequently raised.

As there would be no increase in the stringency of any ADR, TLG and SVSEG members agreed that further consultation through the public comment process was not necessary. The state and territory representatives were also confident that they represented the views of their jurisdictions and that there was no need for further consultation through TISOC or SCOTI.

## **7 Conclusions and Recommendations**

Maintaining alignment of the ADRs with applied UNECE regulations is a lengthy and resource intensive process. However, this process is critical to ensure Australia's compliance with the 1958 Agreement. Australia has applied 29 UNECE regulations and is expecting to apply more in the future. The administrative burden in maintaining alignment of the ADRs is only expected to become heavier in the future.

Of the four options examined to address this problem, two were considered feasible. The first was Option 2, which proposes incorporating flexible references to UNECE regulations within the ADRs. The second was Option 3, which proposes a Harmonisation ADR that would invoke these flexible references automatically for all ADRs that reference applied regulations.

Option 2 and Option 3 would both be in line with past decisions of the Standing Committee on Transport and the Australian Transport Council (ATC). It had been agreed that an abridged process could be introduced to implement or amend ADRs where the proposal is non-contentious and involves increased alignment with UNECE regulations (ATC 2005).

Either amending each ADR separately to include flexible references or implementing the Harmonisation ADR would provide a more efficient means of maintaining alignment of the ADRs with applied UNECE regulations. Option 3, the Harmonisation ADR, would achieve the same result much more efficiently as it would only need to be legislated once. Therefore the Harmonisation ADR under Option 3 is recommended.

## **8 Implementation and Review**

New ADRs or amendments to ADRs are determined by the Parliamentary Secretary for Infrastructure and Transport, under section 7 of the MVSA. Registered subscribers to the ADRs are notified whenever a new ADR or an amendment to an ADR is signed by the

Parliamentary Secretary. Registered subscribers include various industry groups such as vehicle manufacturers, designers and test facilities, and vehicle user organisations.

The application of UNECE regulations and the proposal to introduce a Harmonisation ADR (Option 3) has been discussed within the TLG (as noted in Section 6). No concerns were raised either before or after the application of 29 regulations in June 2010. If TLG members support the introduction of the Harmonisation ADR, then a regulatory package will be provided for the Parliamentary Secretary's consideration.

When the Australian Government takes action to apply regulations, it notifies the UN via a third person note, as well as the JSCOT. The list of regulations that have been applied and their corresponding ADRs can be found at

APPENDIX 2. Under the terms of the 1958 Agreement, there is a 60-day period following notification after which the application comes into effect. After this period the Government proposes to publish details of the applied regulations on the Department's website. This would be an ongoing task that includes listing which regulations have been applied, and providing links to consolidated regulations and development documents. This process will commence in the near future.

Although ADR development will continue to be the role of TLG/SVSEG, amendments that involve UNECE changes, where the regulation has been applied, will have to be considered at the UNECE voting stage rather than after the amendment has come into force. In July 2010, the Standing Committee on Transport agreed to the revitalisation of TLG to facilitate Australian input to standards development internationally, as well as timely consideration of these standards for Australia. In response to this, the timing of TLG/SVSEG has recently been revised to better align them with the international timetable of WP.29, the UNECE regulation development committee. This change will allow for early consideration of UNECE amendments.

As discussed previously, there would remain the option of ceasing to apply a regulation should alignment for a particular ADR not be desired. However, this would be unlikely as UNECE amendments have not been prevented from inclusion in the ADRs in the past, provided that the earlier version had already been referenced as an alternative standard. Only these ADRs would be subject to the application of UNECE regulations.

If the Harmonisation ADR is implemented, the references for those applied regulations that are listed as alternative standards within the ADRs would stay aligned with the latest UNECE regulations automatically. However, should the Harmonisation ADR not be implemented, then the Australian Government, in conjunction with the TLG/SVSEG, may have to establish an extensive program to maintain updates to these ADRs. This would be needed to account for any new amendments to applied UNECE regulations and would need to be done in a timely manner through the normal ADR development process. As discussed, this would be resource intensive and inefficient.

As Australian Government regulations, ADRs are subject to review every ten years. This ensures that they remain relevant, cost effective and do not become a barrier to the importation of safer vehicles and vehicle components. If adopted, "Australian Design Rule—Harmonisation", would be scheduled for a full review on an ongoing basis and in accordance with the Australian Government's Business Review Agenda.

## **References**

Australian Transport Council (2005). Joint Communiqué, June 2005. Retrieved September 13, 2010 from <http://www.atcouncil.gov.au/communique/atc21.aspx#6>

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Regulation Impact Statement  
Department of Infrastructure and Transport  
Harmonisation of the Australian Design Rules

Economic Commission for Europe (2002). World Forum for Harmonisation of Vehicle Regulations. Geneva: United Nations. Retrieved July 16, 2003 from <http://www.unece.org/trans/main/wp29/wp29wgs/wp29gen/wp29pub/wp29pub2002e.pdf>

Department of Infrastructure and Transport (2011). Vehicle Certification in Australia. Retrieved March 30, 2011 from <http://www.infrastructure.gov.au/roads/motor/standards/certification/index.aspx>

The Australian Design Rules are available from [http://www.dotars.gov.au/roads/motor/design/adr\\_online.aspx](http://www.dotars.gov.au/roads/motor/design/adr_online.aspx)

The UNECE Regulations are available from <http://www.unece.org/trans/main/wp29/wp29regs.html>

## **APPENDIX 1**

### **Membership of the Technical Liaison Group (TLG)**

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#### Organisation

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##### *Manufacturer Representatives*

Australian Road Transport Suppliers Association  
 Commercial Vehicle Industry Association  
 Federal Chamber of Automotive Industries  
 Federation of Automotive Product Manufacturers  
 Truck Industry Council  
 Bus Industry Federation

##### *Consumer Representatives*

Australian Automobile Association  
 Australian Trucking Association  
 Australian Motorcycle Council

##### *Government Representatives*

Department of Infrastructure and Transport, Australian Government  
 Department of Transport, Energy and Infrastructure, South Australia  
 Queensland Transport  
 Roads and Traffic Authority, New South Wales  
 VicRoads, Victoria  
 Department of Planning and Infrastructure, Western Australia  
 Office of Transport, Australian Capital Territory  
 Department of Infrastructure, Energy and Resources, Tasmania  
 Department of Planning and Infrastructure, Northern Territory  
 Land Transport Safety Authority of New Zealand

##### *Inter Governmental Agency*

National Transport Commission

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## **APPENDIX 2**

### **List of UNECE regulations being applied under the 1958 Agreement**

<b>ADR</b>	<b>TITLE</b>	<b>UNECE</b>	<b>TITLE</b>
47	Retroreflectors	3	Retro-reflecting devices for power-driven vehicles
48	Devices for Illumination of Rear Registration Plates	4	Illumination of rear-registration plates of motor vehicles (except motor cycles) and their trailers
46	Headlamps	5	"Sealed Beam" headlamps (SB) emitting a European asymmetrical passing beam and/or a driving beam
6	Direction Indicators	6	Direction indicators
49	Front and Rear Position (Side) Lamps, Stop Lamps and End Outline Marker Lamps	7	Front and rear position (side) lamps, stop-lamps and end-outline marker lamps for motor vehicles (except motor cycles) and their trailers
60	Centre High Mounted Stop Lamp	7	Front and rear position (side) lamps, stop-lamps and end-outline marker lamps for motor vehicles (except motor cycles) and their trailers
10	Steering Column	12	Protection of drivers against the steering mechanism in the event of impact
11	Internal Sun Visors	21	Interior fittings
21	Instrument Panel	21	Interior fittings
1	Reversing Lamps	23	Reversing lights for power-driven vehicles and their trailers
30	Smoke Emission Control for Diesel Vehicles	24	Emission of visible pollutants of C.I. engines
23	Passenger Car Tyres	30	Pneumatic tyres for motor vehicles and their trailers
46	Headlamps	31	Power-driven vehicle's sealed-beam headlamps (SB) emitting an European asymmetrical passing beam or a driving beam or both
51	Filament Lamps	37	Filament lamps of power-driven vehicles and their trailers
52	Rear Fog Lamps	38	Rear fog lamps for power-driven vehicles and their trailers
18	Instrumentation	39	Speedometer equipment and its installation
83	External Noise	41	Approval of Motorcycles with Regard to Noise
75	Headlamp Cleaners	45	Headlamp cleaners



Regulation Impact Statement  
 Department of Infrastructure and Transport  
 Harmonisation of the Australian Design Rules

53	Front and Rear Position Lamps, Stop Lamps, Direction Indicators and Rear Registration Plate Lamps for L-Group Vehicles	50	Position lamps, stop lamps, direction indicators for motor cycles
	Installation of Lighting and Light Signalling Devices on L-Group Vehicles)	53	Installation of lighting and light-signalling devices on category L3 vehicles
59	Standards For Omnibus Rollover Strength	66	Strength of the superstructure of large passenger vehicles
19	Installation of Lighting and Light Signalling Devices on L-Group Vehicles)	74	Installation of lighting and light-signalling devices on category L1 vehicles
33	Brake Systems for Motorcycles and Mopeds	78	Braking of category L vehicles
14	Rear Vision Mirrors	81	Rear-view mirrors for motor cycles
74	Side Marker Lamps	91	Side-marker lamps for motor vehicles and their trailers
73	Offset Frontal Impact Occupant Protection	94	Protection of occupants against frontal collision
72	Dynamic Side Impact Occupant Protection	95	Protection of occupants against lateral collision
77	Gas Discharge Headlamps	98	Motor vehicle headlamps equipped with gas-discharge light sources
78	Gas Discharge Light Sources	99	Gas-discharge light sources for use in approved gas-discharge lamp units of power-driven vehicles
46	Headlamps	112	Motor vehicle headlamps emitting an asymmetrical passing beam or a driving beam or both and equipped with filament lamps
46	Headlamps	113	Motor vehicle headlamps emitting a symmetrical passing beam or a driving beam or both and equipped with filament lamps

## **APPENDIX 3**

### **Draft Legislative Instrument for Flexible References within the ADRs**



## **Vehicle Standard (Australian Design Rule – Harmonisation) 2012**

I, CATHERINE KING, Parliamentary Secretary for Infrastructure and Transport,  
determine this vehicle standard under subsection 7 of the *Motor Vehicle Standards  
Act 1989*.

Dated:            /            / 2012

Catherine Fiona King

Parliamentary Secretary for Infrastructure and Transport

## CONTENTS

1.	LEGISLATIVE PROVISIONS .....
2.	SCOPE .....
3.	DEFINITIONS.....
4.	APPLICATION OF UNECE REGULATIONS .....
5.	MUTUAL RECOGNITION OF UNECE REGULATIONS.....

## 1. LEGISLATIVE PROVISIONS

### 1.1 NAME OF STANDARD

This standard is the Vehicle Standard (Australian Design Rule – Harmonisation) 2012.

This standard may also be cited as the Australian Design Rule – Harmonisation.

### 1.2 COMMENCEMENT

This standard commences on the day after it is registered.

## 2. SCOPE

This standard implements the harmonisation and mutual recognition elements of the 1958 Agreement within Australia.

## 3. DEFINITIONS

### 3.1 In this Vehicle Standard:

**1958 Agreement** means the *Agreement concerning the Adoption of Uniform Technical Prescriptions for Wheeled Vehicles, Equipment and Parts which can be Fitted and/or be Used on Wheeled Vehicles and the Conditions for Reciprocal Recognition of Approvals Granted on the Basis of these Prescriptions*, [2000] ATS 11, made at Geneva on 20 March 1958 and coming into force on 20 June 1959.

**ADR** means a vehicle standard determined under section 7 of the Act, but is not limited to any particular series, revision, supplement, amendment or corrigendum.

**alternative standard**, in relation to an ADR, means an alternative standard specified in the ADR.

**apply**, in relation to a UNECE Regulation, means apply the regulation in accordance with Article 1 of the 1958 Agreement.

**the Act** means the *Motor Vehicle Standards Act 1989*.

**UNECE Regulation** means a regulation adopted in accordance with Article 1 of the 1958 Agreement, but is not limited to any particular series, revision, supplement, amendment or corrigendum.

### 3.2 Unless the contrary intention appears, a word or expression that is used in this Vehicle Standard and in the Act has the same meaning in this Vehicle Standard as it has in the Act.

Note: The following terms are defined in the Act:

- new vehicle
- vehicle component

#### **4. APPLICATION OF UNECE REGULATIONS**

- 4.1 Subject to clause 4.2, a new vehicle or a vehicle component is taken to comply with an ADR if:
- (a) the ADR specifies a UNECE Regulation as an alternative standard; and
  - (b) Australia applies the UNECE Regulation; and
  - (c) the new vehicle or vehicle component complies with the UNECE Regulation in force from time to time.
- 4.2 Clause 4.1 does not apply if:
- (a) the UNECE Regulation is not valid or is no longer valid. This includes the situation where the regulation is cancelled or withdrawn in accordance with Article 1 of the 1958 Agreement; or
  - (b) Australia no longer applies the UNECE Regulation. This includes the situation where Australia ceases to apply the regulation in accordance with Article 1 of the 1958 Agreement.

#### **5. MUTUAL RECOGNITION OF UNECE REGULATIONS**

- 5.1 Subject to clause 5.2, a new vehicle or a vehicle component is taken to comply with an ADR if:
- (a) the ADR specifies a UNECE Regulation as an alternative standard; and
  - (b) the type (of vehicle or component) has been approved in accordance with Article 2 of the 1958 Agreement:
    - (i) for the UNECE Regulation; and
    - (ii) by a Contracting Party to the 1958 Agreement applying the UNECE Regulation; and
  - (c) the approval corresponds to the same version of the UNECE Regulation as specified in the alternative standard or the UNECE Regulation in force from time to time.
- 5.2 Clause 5.1 does not apply if:
- (a) the approval (by the Contracting Party) is not valid or is no longer valid. This includes the situation where the approval is cancelled or withdrawn in accordance with Article 2 of the 1958 Agreement; or
  - (b) the approval is (or relevant products are) subject to remedial action in accordance with Article 4 of the 1958 Agreement.