

DEPARTMENT OF INFRASTRUCTURE AND REGIONAL DEVELOPMENT

SECOND SUBMISSION TO THE

PRODUCTIVITY COMMISSION

**REVIEW OF THE MUTUAL RECOGNITION AGREEMENT AND TRANS-
TASMAN MUTUAL RECOGNITION ARRANGEMENT**

21 August 2015



RESPONSE TO THE DRAFT REPORT OF THE REVIEW

Introduction

This second submission by the Department of Infrastructure and Regional Development (the Department) follows that made by the Department on 28 April 2015 and is in response to the Draft Report of the Review dated June 2015 (the Draft Report). It contains supplementary information and should be read in the context of the first submission.

In particular this submission provides further information in respect of Draft Finding and Recommendation 4.1 and argues against the removal of the permanent exemption for road vehicles.

As stated in the Department's first submission, the *Motor Vehicle Standards Act 1989* (the Act) provides a legislative basis for Australia to fulfil its international treaty obligations. That submission highlighted the overall progress made in harmonising Australian and New Zealand standards for road vehicles with the international standards.

However, the Department believes the Draft Report does not reflect the true level of harmonisation with international standards that has occurred in Australia and New Zealand due to a misunderstanding of the way the international framework for vehicle standards operates. The Draft Report indicated that Australia's standards were less harmonised with international standards than New Zealand's when the opposite is the case.

To address this misunderstanding this submission will provide more detail on the international framework for vehicle standards and focus on differences in the standards mandated between Australia and New Zealand. These provide a strong reason why the permanent exemption (granted in 2010) should not be removed.

The International Framework

Australia, together with New Zealand, is a member of the United Nations (UN) World Forum for Harmonization of Vehicle Regulations (Working Party 29), and a Contracting Party to both the 1998 Agreement and the 1958 Agreement, which govern the development of international vehicle design and performance standards¹.

The 1998 Agreement provides for the development of Global Technical Regulations (GTRs). These are model standards that can be adopted within self-certification systems, such as the United States and Canada, and type approval systems such as the European Union, Japan and Australia.

The 1958 Agreement provides for the development of UN Regulations, within a framework of type approval certification and mutual recognition of approvals by Contracting Parties to this Agreement.

¹ The full titles of the agreements are: *Agreement concerning the Establishing of Global Technical Regulations for Wheeled Vehicles, Equipment and Parts which can be fitted and/or be used on Wheeled Vehicles* of 25 June 1998 (the 1998 Agreement); and *Agreement concerning the Adoption of Uniform Technical Prescription 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* of 20 March 1958 (the 1958 Agreement) and the United Nations



The 1998 Agreement includes a requirement that Contracting Parties consider mandating GTRs through their domestic rule making processes. The 1958 Agreement does not include comparable provisions, its focus being on acceptance (rather than mandating) of product built to the requirements of a UN Regulation. However, the general expectation and practice is that where UN Regulations involve increases in stringency, like GTRs, Contracting Parties will consider whether to mandate them. This expectation and practice is reinforced by the transposition of GTRs into UN Regulations, in the form that can be readily adopted by Contracting Parties with type approval systems.

In short, harmonisation with international vehicle standards does not simply mean accepting product built to a specific standard but also requires Contracting Parties to the 1998 and/or 1958 Agreement to consider mandating these standards where increases in stringency are involved, within the context of their own domestic rule making processes.

The effect of this is that while there is a general principle that the most advanced markets will mandate the latest regulations, manufacturers may build vehicles at varying levels of compliance to suit lesser domestic or regional market requirements (although that market may be willing to accept the latest level as well). However, the Draft Report assumes that vehicles will automatically meet the latest level of either UN or other domestic standards – and that these are equivalent.

This leads to a second area of concern in the Draft Report in that it appears to equate individual country standards with international standards and to use the terms interchangeably. International vehicle standards are developed by Working Party 29 and can be influenced and considered for adoption by all Contracting Parties to the 1998 or 1958 Agreement, as relevant. Individual country standards are by definition based on national processes based on national needs. While individual country standards are sometimes derived from international standards, this is not always the case. Even where it is the case, the scope of application and implementation timing can be very different.

Currently individual country standards make up a large part of New Zealand suite of acceptable standards, whereas (as set out on page 25 of the Productivity Commission's issues paper) the Australian Government's policy is to harmonise with international regulations, and to do so on an accelerated basis. The difference is most pronounced in areas where New Zealand accepts product built to a wide variety of individual country standards, while Australia mandates only the latest international standards.

The difference between mandated Australian and New Zealand standards for road vehicles

In terms of *mandating* standards there is a significant difference in the safety, environmental and anti-theft requirements between road vehicles in Australia and New Zealand. These relate to major occupant protection (crash standards, seatbelts and child restraints) active safety systems (anti-skid (stability) technology and advanced brake systems), emissions requirements (labelling and noise) and anti-theft systems². These are detailed below:

² These standards are aligned with existing international standards or, in the case of ADR 69, with a standard currently in development, except for the requirement for lap-sash seatbelts on coaches and some aspects of child restraint anchorages, where Australian standards are currently higher than UN Regulations.



Electronic Stability Control (Australian Design Rule (ADR) 31) – an advanced stability system that reduces loss of control crashes; it has been mandated in Australia for light passenger vehicles with a phase-in date between 2011 and 2013 and light commercial vehicles with a phase-in date between 2015 and 2017 (for New Zealand vehicles, 2015 for light passenger and commercial vehicles, with no final phase-in date).

Brake Assist System (ADR 31) – an emergency braking system that helps reduce most crashes but has particular effectiveness in pedestrian related crashes; this is mandated in Australia for light passenger and commercial vehicles (for New Zealand vehicles there is no requirement).

Frontal Impact Protection (ADRs 69 and 73) – two related standards that reduce deceleration injuries and intrusion injuries of vehicle occupants in a front-on crash; these are mandated in Australia for light passenger and certain commercial vehicles (for New Zealand vehicles the equivalent of either one of the standards only must be met and the scope of the requirements is narrower).

Side Impact Protection (ADR 72) – a standard that reduces deceleration injuries and intrusion injuries of vehicle occupants in a side-on crash; this is mandated in Australia for light passenger and commercial vehicles (for New Zealand vehicles there is no requirement).

Seatbelts (ADR 4 and 68) – standards that require (amongst other things) lap-sash belts in the centre front and rear seating positions (for New Zealand vehicles there may be lap belts only), seatbelt wearing reminder systems (for New Zealand vehicles there is no requirement) and seatbelts to be fitted to long-distance coaches (for New Zealand vehicles there is no requirement).

Child Restraint Anchorages (ADR 34) – a standard that ensures child restraints will be held by the vehicle securely during a crash; this is mandated in Australia for light passenger vehicles (for New Zealand vehicles there is no requirement).

Engine Immobiliser (ADR 82) – a standard that prevents the unlawful starting of a vehicle's engine; this is mandated in Australia for light passenger vehicles (for New Zealand vehicles there is no requirement).

Fuel Consumption Labelling (ADR 81) – a standard that requires the labelling of a vehicle with fuel consumption and CO₂ emission information to assist the consumer to make an informed purchase; this is mandated in Australia for light passenger vehicles (for New Zealand vehicles there is no requirement for CO₂ information or to label electric vehicles).

Noise (ADR 83) – a standard that limits the noise of a vehicle in operation; this is mandated in Australia for light passenger vehicles (for New Zealand vehicles noise levels are less stringent).

Speedometers (ADR 18) – a standard that sets the allowable tolerances on the readings of a speedometer and requires the primary display to be in kilometres per hour (for New Zealand vehicles there are no tolerance requirements and the display can be in miles per hour or kilometres per hour).



Differences in vehicle safety performance

There are observable differences in vehicle safety performance between Australia and New Zealand.

The Monash University Accident Research Centre (MUARC) has estimated that the average crashworthiness of the Australian light vehicle fleet improved by 27% in the period 2000 to 2010. MUARC attributed these improvements largely to the ADR crash standards.³

MUARC has estimated that the average crashworthiness of the New Zealand fleet improved by 18% - a 50% lesser improvement than Australia - in the same period, despite starting from a lower base.⁴

Crashworthiness figures do not fully reflect overall vehicle safety as they do not take account of vehicle crash avoidance systems. However, it could be expected that the (at least, earlier) requirement for Electronic Stability Control (ESC) and Brake Assist Systems in the Australian vehicle fleet have improved/will improve overall vehicle safety further relative to the New Zealand vehicle fleet. In particular, the earlier and more comprehensive mandating of ESC in Australia is likely to have a major impact as it has been calculated to reduce fatalities in single light passenger and commercial vehicle injury crashes by between 27% and 68%, depending on vehicle type.

While determined by many other factors than vehicle safety, it should also be noted that fatality rates per 100,000 population in 2014 were:

- 4.92 in Australia; and
- 6.59 in New Zealand.

Given the difference in safety, environment and anti-theft standards, and the difference in vehicle safety performance between Australia and New Zealand, the Department is of the view that the removal of the permanent exemption would lead to an increased risk to the Australian motoring public.

Other comments on the Draft Report

There are other aspects of the Draft Report that the Department appreciates being able to comment on:

1. The Draft Report initially states that “Australia has been unwilling to accept vehicles which do not meet its unique standards” (page 16) and “Australia has been unwilling to accept vehicle standards set by other countries and at an international level” (page 83). It is not correct that Australia has “unique standards”. Australia has a strong commitment to international standards and the ADRs are substantially harmonised with international standards. For example, in 2010 Australia formally applied 29 United Nations Regulations meaning that, whenever those Regulations are updated, the updates flow through automatically to the ADRs. The Government is committed to accelerating harmonisation with United Nations Regulations and a program to apply further Regulations is underway. In addition Australia is fully engaged with the United Nations in the development of the

³ Monash University Accident Research Centre (MUARC), *Inquiry into aspects of road safety in Australia* (Submission to the Senate Standing Committee on Rural and Regional Affairs and Transport), p28

⁴ MUARC, unpublished data provided to the Department.



internationally based approval of entire vehicles (rather than at the current system and component level) – International Whole Vehicle Type Approval (IWVTA). It is likely to be one of the first adopters of the new system when it has been finalised. The Department suggests that the Draft Report’s overarching statements could better reflect the level of engagement and commitment Australia has with the international standards arrangements, including in mandating standards that involve an increase in stringency. For the most part Australia does not accept other countries’ standards where they are not aligned with international standards. However, many countries have an authority which issues approvals to United Nations standards and Australia accepts these.

2. The safety performance of the New Zealand fleet (Box 4.3 on page 86 of the Draft Report) relates to the relative performance of new and used vehicles in New Zealand and is not comparable to Australian vehicles. In addition, there is no information given on environmental or anti-theft performance.

Conclusion

The Department continues to argue for the retention of the permanent exemption for road vehicles, noting that its removal would potentially allow road vehicles to be supplied in unlimited numbers to the Australian market that are less safe, less environmentally friendly and more susceptible to theft than they are currently required to be in Australia.

The Department is open to working with its New Zealand counterparts to reduce the scope of the exemption over time.