

ANNEX 2-C

MOTOR VEHICLES AND PARTS

ARTICLE 1

Definitions

1. For the purposes of this Annex:
 - (a) "WP.29" means the World Forum for Harmonization of Vehicle Regulations, acting within the framework of the United Nations and the Economic Commission for Europe;
 - (b) "1958 Agreement" means the Agreement concerning the Adoption of Harmonized Technical United Nations Regulations 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 United Nations Regulations;
 - (c) "1998 Agreement" means the 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;

- (d) "UN Regulation" means a United Nations Regulation established in accordance with the 1958 Agreement;
- (e) "GTR" means a global technical regulation established and placed on the Global Registry in accordance with the 1998 Agreement;
- (f) "applying a UN Regulation" means that a UN Regulation enters into force for a Party in accordance with the 1958 Agreement;
- (g) "type approval" means the administrative decision by the competent authorities of a Party certifying that a type of vehicle, part or equipment conforms to the relevant administrative provisions and technical requirements; and
- (h) "type approval certificate" means the document whereby the competent authorities officially certify that a type of vehicle, part or equipment has been granted a type approval.

2. Technical regulations and conformity assessment procedures are defined in accordance with paragraphs 1 and 3 of Annex 1 to the TBT Agreement.

ARTICLE 2

Scope

This Annex applies to all products of motor vehicles, their parts and equipment regulated by the 1958 Agreement or the 1998 Agreement with the exception of any motor vehicles, their parts and equipment used exclusively for agriculture or forestry, falling in particular under Chapters 40, 84, 85, 87, and 94 of the HS (hereinafter referred to as "covered products").

ARTICLE 3

Objectives

Recognising the importance of motor vehicles, their parts and equipment for trade, growth and employment, the objectives of this Annex are to:

- (a) promote high levels of safety, environmental protection, energy efficiency and anti-theft performance of motor vehicles, their parts and equipment which can be fitted or used on wheeled vehicles;
- (b) facilitate trade between the Parties and access to their respective markets through regulatory cooperation as well as the elimination and prevention of adverse effects of non-tariff measures to trade;

- (c) enhance the international harmonisation of requirements in the context of WP.29 and the mutual recognition of type approvals granted in accordance with UN Regulations without requiring any further testing, documentation, certification or marking; and
- (d) achieve convergence of regulatory requirements of the Parties through the application of UN Regulations and GTRs.

ARTICLE 4

Relevant international standards and standardising body

The Parties recognise that the WP.29 is the relevant international standardising body for the covered products, and that UN Regulations and GTRs are relevant international standards for covered products.

ARTICLE 5

Application of existing UN Regulations

1. Each Party shall accept on its market products which are covered by a type approval certificate, under the 1958 Agreement, for the UN Regulations specified in Appendix 2-C-1 as compliant with its domestic technical regulations and conformity assessment procedures, in the area regulated by the relevant UN Regulation, without requiring any further testing, documentation, certification or marking.

2. The Parties shall consult, with a view to ensuring safety and environmental protection and to promoting harmonisation of technical regulations under the 1958 Agreement, and shall agree on the dates for applying the UN Regulations specified in Appendix 2-C-2 no later than seven years after the date of entry into force of this Agreement. When the Parties, during those consultations, consider it necessary to amend a specific UN Regulation in order to agree on the date of application, the provisions of Article 6 of this Annex apply.

ARTICLE 6

Amendments to existing UN Regulations

1. Whenever a Party considers it necessary to amend a UN Regulation listed in Appendices 2-C-1 or 2-C-2, that Party shall consult with the other Party to consider amending the UN Regulation.
2. If the Parties agree on amending the UN Regulation, the Parties shall cooperate to develop a draft amendment, taking into account road traffic environment of each Party, and to submit it to WP.29. The Parties shall cooperate with a view to the early adoption of the draft amendment at WP.29.

3. If the Parties agree that an amended UN Regulation listed in Appendix 2-C-2 does not significantly diverge from the draft amendment developed by the Parties, each Party shall accept type approvals granted pursuant to the amended UN Regulation no later than the date specified therein. In case of disagreement between the Parties, the rights and obligations of the 1958 Agreement shall apply.

ARTICLE 7

Establishment of new UN Regulations

1. Whenever a Party considers it necessary to establish a new UN Regulation, that Party shall consult with the other Party with a view to ensuring safety and environmental protection and to promoting harmonisation of technical regulations.
2. If the Parties agree on establishing a new UN Regulation, they shall cooperate to develop a joint draft UN Regulation and to submit it to WP.29. The Parties will cooperate aiming at the early adoption of that draft UN Regulation at WP.29.

3. If the Parties agree that the newly adopted UN Regulation does not significantly diverge from the original joint draft referred to in paragraph 2, each Party shall accept type approvals granted pursuant to that new UN Regulation as from the date specified in that UN Regulation and include it in the list of Appendix 2-C-1. In case of disagreement between the Parties, the rights and obligations of the 1958 Agreement shall apply.

ARTICLE 8

Ceasing to apply UN Regulations

1. In exceptional circumstances where a Party intends to cease applying a UN Regulation listed in Appendices 2-C-1 or 2-C-2, that Party shall notify its intention to the other Party. This notification shall be done one year in advance of the date on which the application of the UN Regulation would cease.
2. Before ceasing to apply a UN Regulation, a Party shall engage in a dialogue with the other Party to explore alternative actions or measures available under the 1958 Agreement.
3. After a Party has explained duly substantiated reasons, that Party may decide to cease applying a UN Regulation in accordance with the 1958 Agreement.

ARTICLE 9

Updating of appendices

1. The Parties shall, based on the assessment of the Working Group on Motor Vehicles and Parts established pursuant to paragraph 1 of Article 22.4, amend Appendices 2-C-1 or 2-C-2 by decision of the Joint Committee in accordance with paragraph 3 and subparagraph 4(b) of Article 23.2, in order to reflect amendments agreed pursuant to paragraph 3 of Article 6 of this Annex, to include a new UN Regulation pursuant to paragraph 3 of Article 7 of this Annex and to delist a UN Regulation the application of which has ceased under paragraph 3 of Article 8 of this Annex.
2. The dates agreed pursuant to paragraph 2 of Article 5 of this Annex shall be included in Appendix 2-C-2. When a UN Regulation specified in Appendix 2-C-2 is applied, it shall be transferred to Appendix 2-C-1.
3. If the Parties cannot agree on the specific amendment in the consultations pursuant to paragraph 2 of Article 5 in conjunction with Article 6 of this Annex, the Parties may change the date for applying such UN Regulation or agree to remove it from Appendix 2-C-2.

ARTICLE 10

International whole vehicle type approvals

1. Each Party shall apply UN Regulation No. 0 and accept products under the 1958 Agreement of the other Party for which an International Whole Vehicle Type Approval certificate has been issued as complying with all domestic technical regulations and conformity assessment procedures in the areas covered by the International Whole Vehicle Type Approval, without requiring any further testing, documentation, certification or marking.
2. The Parties agree to cooperate in the implementation of UN Regulation No. 0 to facilitate its worldwide use and to cooperate in enlarging the coverage of UN Regulation No. 0 to additional vehicle categories.

ARTICLE 11

Amending existing domestic technical regulations

1. The Parties shall refrain from amending existing domestic technical regulations in a manner that renders them more trade-restrictive than necessary to fulfill a legitimate objective for the importation and the putting into service on their domestic market of products for which type approvals have been granted pursuant to UN Regulations.

2. Recognising the importance of international efforts on harmonisation of technical regulations through UN Regulations, the Parties shall consider positively an increase in their convergence with existing UN Regulations when amending an existing domestic technical regulation with a view to enhancing safety and environmental protection.

ARTICLE 12

Introducing domestic technical regulations

1. The Parties shall refrain from introducing any new domestic technical regulations or conformity assessment procedures which have the effect of preventing or increasing the burden for the importation and the putting into service on their domestic market of products for which type approvals have been granted under UN Regulations applied by both Parties, for the areas covered by those UN Regulations unless such domestic technical regulations or conformity assessment procedures are explicitly provided for by those UN Regulations.

2. Except for cases where the Parties complied with Articles 6 and 7 of this Annex, when a Party intends to develop or amend a domestic technical regulation or conformity assessment procedure in areas not covered by existing UN Regulations, the regulatory authorities of the Party shall:
- (a) inform the regulatory authorities of the other Party of the regulatory objective and plan as well as transmit any regulatory justification or existing impact assessment regarding the intended domestic technical regulation or conformity assessment procedure at an early stage;
 - (b) assess the possibility to develop and adopt a new UN Regulation or to amend an existing UN Regulation in the area in which that Party intends to introduce a domestic technical regulation or conformity assessment procedure; and
 - (c) notify the Co-Chair of the Working Group on Motor Vehicles and Parts of the other Party when that Party decides to introduce a domestic technical regulation or conformity assessment procedure in an area not covered by a UN Regulation.

ARTICLE 13

Consultation procedure

1. When a Party decides to introduce or to amend a domestic technical regulation or conformity assessment procedure in accordance with this Agreement, the other Party may request consultations with that Party, which shall accept those consultations without delay. During those consultations, the Parties shall cooperate to develop a solution to minimise negative effects on bilateral trade. In situations where the Party requires an immediate action, that Party may adopt the domestic technical regulation or conformity assessment procedure before the completion of such consultations. That Party shall communicate and substantiate the urgency and imminent risks to safety or the environment.
2. If the Parties fail to agree on a solution, the Party referred to in paragraph 1 may adopt its domestic technical regulation or conformity assessment procedure and the other Party may have recourse to dispute settlement under Chapter 21 in accordance with Article 19 of this Annex if it deems that that domestic technical regulation or conformity assessment procedure could adversely affect trade between the Parties.
3. The decision of the other Party whether or not to invoke consultations under paragraph 1 is without prejudice to the right of that other Party to have recourse to dispute settlement under Chapter 21 in accordance with Article 19 of this Annex with respect to a new or amended domestic technical regulation or conformity assessment procedure adopted by the Party referred to in paragraph 1.

ARTICLE 14

Products with new technologies or new features

A Party shall not prevent or unduly delay the placing on its market of a covered product on the ground that it incorporates a new technology or a new feature which has not yet been regulated unless there are duly substantiated risks to human health, safety or the environment. Each Party shall implement the relevant provisions of the 1958 Agreement relating to new technologies.

ARTICLE 15

Regulatory exception clause

1. If there are urgent and compelling risks for human health, safety or the environment, a Party may refuse the placing of a covered product on its market or may require the withdrawal from its market of a covered product which is compliant with the technical regulations and conformity assessment procedures referred to in this Annex. Such a refusal or requirement shall not constitute a means of arbitrary or unjustifiable discrimination against the products of the other Party or a disguised restriction on trade.

2. A Party's refusal or requirement referred to in paragraph 1 shall be notified to the other Party and to the manufacturer or the importer before its entry into force. The notification shall be accompanied by an objective, reasoned and detailed explanation of the risks and the measures, and any relevant scientific and technical evidence. The Party referred to in paragraph 1 shall endeavour to solve the situation via the application of the procedure referred to in Article 4 of the 1958 Agreement.

ARTICLE 16

Regulatory measures restricting trade

Each Party shall refrain from nullifying or impairing the market access benefits accruing to the other Party under this Annex through other regulatory measures specific to the sector covered by this Annex. This is without prejudice to the right to adopt regulatory measures necessary for safety, environmental protection or public health and the prevention of deceptive practices, provided that such measures are based on substantiated scientific or technical information and that the relevant cooperation provided for in this Annex has been undertaken in good faith.

ARTICLE 17

Joint cooperation

1. In order to further facilitate trade in motor vehicles, their parts and equipment and to address market access problems before they arise, while ensuring safety and environmental protection, the Parties agree to cooperate on any matters concerning covered products.
2. Each Party shall respond to written and duly substantiated questions and comments by the other Party regarding any aspects concerning covered products. Such response shall be made in writing, in a timely manner and within a time period not exceeding 60 days after the date of receipt of those questions or comments.
3. Following the exchanges referred to in paragraph 2, the Parties shall cooperate to promptly clarify any remaining issues concerning covered products and, where possible, address those issues with a view to seeking a mutually satisfactory solution.

ARTICLE 18

Safeguard

1. During the 10 years following the entry into force of this Agreement, each of the Parties reserves the right to suspend equivalent concessions or other equivalent obligations in the event that the other Party:¹
 - (a) does not apply or ceases applying a UN Regulation as specified in Appendix 2-C-1; or
 - (b) introduces or amends any other regulatory measure that nullifies or impairs the benefits of the application of a UN Regulation as specified in Appendix 2-C-1.
2. Suspensions pursuant to paragraph 1 shall remain in force only until a decision is made in accordance with the accelerated dispute settlement procedure referred to in Article 19 of this Annex or a mutually acceptable solution is found, including through consultations under subparagraph (b) of Article 19 of this Annex, whichever is earlier.

¹ The level of the suspension of concessions or other obligations shall be no more than the level of the amount of the bilateral trade between the Parties of products covered by the UN Regulation referred to in subparagraph 1(a) or (b) of this Article.

ARTICLE 19

Accelerated dispute settlement

Chapter 21 applies to this Annex subject to the following modifications:

- (a) disputes concerning the interpretation or application of this Annex shall be considered as matters of urgency;
- (b) the period for consultations provided for in paragraph 4 of Article 21.5 shall be reduced from 45 days to 15 days;
- (c) the period for the issuance of the interim report of the panel provided for in paragraph 1 of Article 21.18 shall be reduced from 120 days to 60 days after the date of the establishment of the panel;
- (d) the period for the issuance of the final report provided for in paragraph 1 of Article 21.19 shall be reduced from 30 days to 15 days after the date of the issuance of the interim report;
- (e) the following paragraph shall be deemed to be added to Article 21.20: "The reasonable period of time should normally not exceed 90 days, and in no case shall exceed 150 days from the date of the issuance of the final report in cases where the adoption of a measure by the Party complained against does not require legislative action in order to bring that Party into compliance."; and

- (f) paragraphs 2 and 3 of Article 21.22 shall be replaced by the following: "If the complaining Party decides not to request in accordance with paragraph 1, or, in case such request is made and no mutually satisfactory compensation nor any other alternative arrangement has been agreed within 20 days after the date of receipt of the request made in accordance with paragraph 1, the complaining Party shall be entitled, upon notification to the Party complained against, to suspend any obligations, including on the reduction or elimination of customs duties for covered products. The notification shall specify the level of suspension of obligations. The complaining Party shall have the right to implement the suspension at any moment after the expiry of 10 days from the date of receipt of the notification by the Party complained against."

ARTICLE 20

Working Group on Motor Vehicles and Parts

1. The Working Group on Motor Vehicles and Parts established pursuant to paragraph 1 of Article 22.4 shall be responsible for the effective implementation and operation of this Annex.
2. The functions of this Working Group shall be to:
 - (a) discuss any matter arising under this Annex, upon a Party's request;

- (b) assess the need for amending Appendixes 2-C-1 and 2-C-2, in accordance with Articles 5 to 9 of this Annex;
 - (c) carry out cooperation in accordance with this Annex;
 - (d) carry out consultations in accordance with Article 13 of this Annex;
 - (e) establish *ad hoc* working groups at the request of either Party, in order to address a specific issue raised by a Party; and
 - (f) carry out other functions as may be delegated by the Joint Committee pursuant to subparagraph 5(b) of Article 22.1.
3. Notwithstanding subparagraphs 3(a) and (c) of Article 22.4, the Working Group shall meet on request of a Party at such venues as mutually determined.