

MOTOR VEHICLES AND EQUIPMENT OR PARTS THEREOF

ARTICLE 1

Definitions

1. For the purposes of this Annex, the following definitions apply:
 - (a) "WP.29" means the World Forum for Harmonization of Vehicle Regulations within the framework of the United Nations Economic Commission for Europe (hereinafter referred to as "UNECE");
 - (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, done at Geneva on 20 March 1958, administered by the WP.29;

- (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, done at Geneva on 25 June 1998, administered by the WP.29;
- (d) "UN Regulation" means a regulation adopted 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) "HS 2017" means the 2017 edition of the Harmonized System Nomenclature issued by the World Customs Organization; and
- (g) "remanufactured equipment or parts" means equipment or parts that:
 - (i) are entirely or partially comprised of parts obtained from equipment and parts that have been used beforehand;
 - (ii) have similar performance and working conditions compared to the equivalent equipment and parts in new condition; and
 - (iii) are given the same warranty as the equivalent equipment and parts in new condition.

2. Terms used in this Annex shall have the same meaning as defined in the 1958 Agreement or in Annex 1 to the TBT Agreement.

ARTICLE 2

Product scope

This Annex applies to trade between the Parties of all categories of motor vehicles, equipment and parts thereof, as defined under paragraph 1.1 of the UNECE Consolidated Resolution on the Construction of Vehicles (R.E.3)¹, falling, *inter alia*, under Chapters 40, 84, 85, 87 and 94 of HS 2017 (hereinafter referred to as "covered products") except for the categories of vehicles listed in Appendix 9-B-1 (Excluded vehicle categories).

ARTICLE 3

Objectives

With regard to the covered products, the objectives of this Annex are to:

- (a) eliminate and prevent any unnecessary technical barriers to bilateral trade;
- (b) promote compatibility and convergence of regulations based on international standards;

¹ ECE/TRANS/WP.29/78/Rev.6 of 11 July 2017.

- (c) promote the recognition of approvals based, in particular, on approval schemes applied under the agreements administrated by WP.29 within the framework of UNECE and those based on EU type-approvals;
- (d) reinforce competitive market conditions based on principles of openness, non-discrimination and transparency;
- (e) promote mutual commitment of the Parties to ensure maximum levels of protection of human health, safety, the environment and the transport infrastructure; and
- (f) enhance cooperation to foster continued mutually beneficial development in trade and the regulatory regime governing motor vehicles.

ARTICLE 4

Relevant international standards

The Parties recognise that WP.29 is the main relevant international standardising body and that UN Regulations and GTRs under the 1958 Agreement and 1998 Agreement are relevant international standards for the covered products.

ARTICLE 5

Regulatory convergence

1. (a) In areas covered by UN Regulations or GTRs, or where the completion of UN Regulations or GTRs is imminent, each Party shall use them as a basis for its domestic technical regulations, markings or conformity assessment procedures, except when a specific UN Regulation or GTR would be ineffective or inappropriate to fulfil legitimate objectives referred to in Article 2.2 of the TBT Agreement or of the 1958 Agreement and 1998 Agreement.

- (b) A Party that introduces a divergent domestic technical regulation, marking or conformity assessment procedure as referred to in point (a) of this paragraph shall, on request of the other Party, identify any part of its domestic technical regulation, marking or conformity assessment procedure that substantially deviates from the relevant UN Regulations or GTRs and provide an explanation of the reasons for such deviation.

2. Insofar as a Party has introduced or maintains technical regulations, markings or conformity assessment procedures that diverge from UN Regulations or GTRs, as permitted by paragraph 1, that Party shall endeavour to review such technical regulations, markings or conformity assessment procedures whenever necessary, with a view to increasing their convergence with the relevant UN Regulations or GTRs. When reviewing their technical regulations, markings or conformity assessment procedures, each Party shall take into account, *inter alia*, any new developments in the UN Regulations or GTRs and any change in the circumstances that have given rise to divergences from any relevant UN Regulations or GTRs. The Party undertaking the review shall notify the outcome of that review, including scientific and technical information used, to the other Party upon request.

3. Each Party shall refrain from introducing or maintaining technical regulations, markings or conformity assessment procedures that have the effect of prohibiting, restricting or increasing the burden for the importation, and the putting into service on their domestic market, of products type-approved under UN Regulations for the areas covered by those UN Regulations, unless such technical regulations, markings or conformity assessment procedures are explicitly foreseen by those UN Regulations.

ARTICLE 6

Market access

1. Each Party shall accept, on its market, products that are covered by a valid UN type-approval certificate issued by the Union or New Zealand, as contracting parties to the 1958 Agreement, or a valid EU type-approval certificate¹, as compliant with their domestic technical regulations, markings and conformity assessment procedures, without requiring any further testing, documentation, certification or marking concerning such type-approval certificates. In the case of vehicle approvals, both the EU whole vehicle type approvals (EUWVTA) and the UN's Universal International Whole Vehicle Type Approval (hereinafter referred to as "U-IWVTA") shall be considered valid. Only those UN type-approval certificates issued by a Party that has acceded to the relevant UN Regulations and which have been granted pursuant to the 1958 Agreement can be considered valid.
2. A Party shall only be obliged to accept valid UN type-approval certificates issued pursuant to the latest version of the UN Regulations, if it applies those UN Regulations. A Party may also consider accepting valid UN type-approval certificates if it does not apply those UN Regulations, provided the type-approved products meet all their applicable domestic requirements.

¹ Including EEC, EC and EU type-approval certificates.

3. For the purposes of paragraph 1, the following shall be considered sufficient proof of the existence of a valid EU or UN type-approval:

- (a) for whole vehicles, a valid EU Certificate of Conformity¹ or UN Declaration of Conformance² certifying compliance with a U-IWVTA;
- (b) for equipment and parts, a valid EU or UN type-approval mark affixed to the product; and
- (c) for equipment and parts to which a type-approval mark³ cannot be affixed, a valid EU or UN type-approval certificate.

4. A Party may allow its competent authorities to verify that the covered products comply, as appropriate, with either:

- (a) all the domestic technical regulations of the Party; or

¹ Including EC and EU Certificates of Conformity.

² In the case of a UN Declaration of Conformance, the obligation in this provision will enter into application when UN Regulation No. 0 on the International Whole Vehicle Type Approval has entered into force.

³ Including EEC, EC and EU type-approval marks.

- (b) the EU or UN technical regulations with respect to which compliance has been attested, in application of this Article, by a valid EU Certificate of Conformity or UN Declaration of Conformance certifying compliance with a U-IWVTA, in the case of whole vehicles, or by a valid EU or UN type-approval mark affixed to the product or a valid EU or UN type-approval certificate, in the case of equipment and parts.

Such verification shall be carried out by random sampling in the market and in accordance with the technical regulations under point (a) or (b), as the case may be.

- 5. A Party may require a supplier to withdraw a product from its market if the product concerned does not comply with the technical regulations referred to in points (a) and (b) of paragraph 4.

ARTICLE 7

Products with new technologies or new features

- 1. Neither Party shall prevent or restrict access to its market of a product covered by this Annex and approved by the exporting Party on the grounds that the product incorporates a new technology or a new feature that the importing Party has not yet regulated.

2. Notwithstanding paragraph 1, an importing Party may restrict access to its market or require the withdrawal from its market of such a non-regulated product incorporating a new technology or a new feature if that new technology or new feature would:

- (a) create a risk for human health, safety, the environment or the transport infrastructure; or
- (b) be inconsistent with existing domestic environmental standards or infrastructure.

3. An importing Party restricting access to or requiring withdrawal from its market pursuant to paragraph 2 shall immediately notify its decision to the other Party. The Party shall include in the notification all relevant scientific or technical information considered in the Party's decision.

ARTICLE 8

Remanufactured equipment or parts

1. A Party shall not accord to remanufactured equipment or parts of the other Party treatment that is less favourable than that which the Party accords to equivalent equipment or parts in new condition.

2. For greater certainty, Article 2.11 (Import and export restrictions) applies to import or export prohibitions or restrictions on the importation or exportation of remanufactured equipment or parts. If a Party adopts or maintains import or export prohibitions or restrictions on used equipment or parts, it shall not apply such measures to remanufactured equipment or parts.

3. A Party may require that remanufactured equipment or parts be identified as such for distribution or sale in its territory and that the remanufactured equipment or parts meet similar performance requirements to those that apply to equivalent equipment or parts in new condition.

ARTICLE 9

Other measures restricting trade

Each Party shall refrain from nullifying or impairing the benefits accruing to the other Party under this Annex through regulatory measures specific to the covered products. This is without prejudice to the right to adopt measures necessary for road safety, protections for health, the environment and the transport infrastructure, and the prevention of deceptive practices.

ARTICLE 10

Cooperation

1. The Parties shall cooperate and exchange information on any matter relevant for the implementation of this Annex in the Committee on Trade in Goods.

2. The Parties shall work together, as appropriate, to progress areas of mutual interest in relevant international standardising bodies.

EXCLUDED VEHICLE CATEGORIES¹

Annex 9-B (Motor vehicles and equipment or parts thereof) does not apply to the following vehicles:

Vehicles of category L6 as defined in Paragraph 2.1.6 of R.E.3.

Vehicles of category L7 as defined in Paragraph 2.1.7 of R.E.3.

Vehicles of category M2 as defined in Paragraph 2.2.2 of R.E.3.

Vehicles of category M3 as defined in Paragraph 2.2.3 of R.E.3.

Vehicles of category N2 as defined in Paragraph 2.3.2 of R.E.3.

Vehicles of category N3 as defined in Paragraph 2.3.3 of R.E.3.

Vehicles of category O3 as defined in Paragraph 2.4.3 of R.E.3.

¹ Although this list of excluded vehicles is not covered by Annex 9-B (Motor vehicles and equipment or parts thereof), this does not mean that the vehicles cannot be imported if they meet domestic requirements.

Vehicles of category O4 as defined in Paragraph 2.4.4 of R.E.3.

Vehicles manufactured in small volumes that have been individually type approved.

Used vehicles of categories: L1, L2, L3, L4, L5, L6, L7, M1, N1, O1 and O2, including vehicles that have been used for the purpose of demonstration in connection with the sale of similar vehicles, that have, at any time before been offered or displayed for sale, in accordance with the Land Transport Rule: Vehicle Standards Compliance 2002.¹

¹ Such vehicles have been:

- (a) registered under:
 - (i) the Transport Act 1962;
 - (ii) the Transport (Vehicle and Driver Registration and Licensing Act 1986) or Part 17 of the Land Transport Act 1998; or
 - (iii) any corresponding legislation in any other country; or
- (b) used for a purpose not connected with its manufacture or sale.

