

ANNEX

MOTOR VEHICLES AND EQUIPMENT AND PARTS THEREOF

Article 1

Definitions

1. For the purpose of this Annex, the following definitions apply:

- (a) **WP.29** means the World Forum for Harmonisation of Vehicle Regulations within the framework of the United Nations Economic Commission for Europe (UN ECE);
- (b) **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* (Geneva, 1958) administered by the WP.29, and all subsequent amendments and revisions thereof;
- (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* (Geneva, 1998) administered by the WP.29, and all subsequent amendments and revisions thereof;
- (d) **GTR** means the *Global Technical Regulations* established and placed on the Global Registry in accordance with the 1998 Agreement;
- (e) **HS 2012** means the 2012 edition of Harmonised System Nomenclature issued by the World Custom Organisation.
- (f) **UN ECE Regulations** means *Technical Regulations* adopted in accordance with the 1958 Agreement.
- (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 WTO Agreement on Technical Barriers to Trade.

Article 2

Product Scope

This Annex shall apply to trade between the Parties of all categories of motor vehicles, equipment and parts thereof, as defined under Article 1.1. of UN ECE Consolidated Resolution on the Construction of Vehicles (R.E.3)¹, falling inter alia under Chapters 40, 84, 85, 87 and 94 of the HS 2012 (hereinafter referred to as “products covered”).

Article 3

Objectives

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

- (a) eliminate and prevent non-tariff barriers to bilateral trade;
- (b) promote compatibility and convergence of regulations based on international standards;
- (c) promote recognition of approvals based in particular on approval schemes applied under the agreements administered by WP.29;
- (d) establish competitive market conditions based on principles of openness, non-discrimination and transparency;
- (e) secure the protection of human health, safety and the environment; and
- (f) enhance cooperation to foster continued mutually beneficial development in trade.

Article 4

International Standards

1. The Parties recognise that the UN ECE Regulations of the WP.29 are the relevant international standards for the products covered by this Annex.
2. The Mercosur Parties shall endeavor to become contracting parties to the 1958 Agreement and to apply UN ECE Regulations.

Article 5

Regulatory Convergence

1. (a) The Parties shall refrain from introducing or maintaining a domestic technical regulation, marking, or conformity assessment procedure diverging from UN ECE Regulations or GTRs in areas covered by such Regulations or GTRs,

¹ ECE/TRANS/WP.29/78/Rev.4 of 26 January 2016

including where those Regulations or GRTs have not been completed but their completion is imminent, unless there are substantiated reasons why a specific UN ECE Regulation or GTR is ineffective or inappropriate for ensuring road safety or the protection of the environment or public health.

- (b) A Party which introduces a divergent domestic technical regulation, marking, or conformity assessment procedure as referred to in subparagraph (a) shall, upon request from the other Party, identify the parts of the domestic technical regulation, marking, or conformity assessment procedure which substantially deviate from the relevant UN ECE Regulations or GTR and provide due justification as to the reasons for the deviation.
2. Insofar as a Party has introduced or maintains, domestic technical regulations, markings and conformity assessment procedures that diverge from UN ECE Regulations or GTRs, as permitted by paragraph 1, that Party shall review those at regular intervals, not exceeding five years, with a view to increasing their convergence to the relevant UN ECE Regulations or GTRs. When reviewing their domestic technical regulations, markings and conformity assessment procedures, the Parties shall consider whether the reasons that justified the divergence still exist. The outcome of these reviews, including scientific and technical information used, shall be notified to the other Party upon request.
3. Each Party shall refrain from introducing or maintaining domestic technical regulations, markings, or conformity assessment procedures which 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 ECE Regulations for the areas covered by those UN ECE Regulations unless such domestic technical regulations, markings or conformity assessment procedures are explicitly foreseen by those UN ECE Regulations.

Article 6

Market Access

1. The Parties shall accept on their markets products which are covered by a valid EC or UN ECE type-approval certificate as compliant with their domestic technical regulations, markings and conformity assessment procedures, without further testing or marking requirements to verify or attest compliance with any requirement covered by such EC or UN ECE type-approval. In the case of UN ECE type-approval certificates for whole vehicles, only the Universal International Whole Vehicle Type Approval (U-IWVTA) shall be considered valid.
2. For the purpose of paragraph 1, the following shall be considered sufficient proof of the existence of a valid EC or UN ECE type-approval:

- (a) for whole vehicles, a valid EC Certificate of Conformity or UN ECE Declaration of Conformance² certifying compliance with a U-IWVTA;
 - (b) for equipment and parts, a valid EC or UN ECE type-approval mark affixed to the product;
 - (c) for equipment and parts to which a type-approval mark cannot be affixed, a valid EC or UN ECE type-approval Certificate.
3. With regard to valid UN ECE type-approvals issued by a type approval authority of a Mercosur Party, this Article shall apply when that Mercosur Party becomes a Contracting Party to the 1958 Agreement and it applies the relevant UN ECE Regulation.
4. The competent authorities of each Party may verify that the products covered comply, as appropriate, with either:
- (a) all the domestic technical regulations of the Party; or
 - (b) the EC or UN ECE technical regulations of which compliance has been attested, in application of Article 6, by a valid EC Certificate of Conformity or UN ECE Declaration of Conformance certifying compliance with a U-IWVTA, for whole vehicles, or a valid EC or UN ECE type-approval mark affixed to the product or a valid EC or UN ECE type-approval certificate, for equipment and parts.
- Such verification shall be carried out by random sampling in the market and in accordance with the technical regulations under subparagraphs (a) or (b), as the case may be.
6. Each Party may require the supplier to withdraw a product from its market in case the product concerned does not comply with those technical regulations.

Article 7

Products with New Technologies or New Features

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

² In the case of a Declaration of Conformance, this disposition will enter into application when the Revision 3 of the 1958 Agreement and UN Regulation No. 0 on the International Whole Vehicle Type Approval have been adopted

regulated, unless it can demonstrate that this new technology or new feature creates a risk for human health, safety or the environment.

2. When a Party decides to refuse the access to its market or requires the withdrawal from its market of a product of the other Party covered by this Annex on the ground that it incorporates a new technology or a new feature creating a risk for human health, safety or the environment, it shall immediately notify this decision to the other Party and to the economic operator(s) concerned. The notification shall include all relevant scientific or technical information considered in the Party's decision.

Article 8

Remanufactured equipment and parts

1. No Party shall accord to remanufactured equipment and parts of the other Party a treatment that is less favourable than that it accords to equivalent equipment and parts in new condition.
2. For greater certainty, Article [X] (Import and Export Restrictions) applies to import and export prohibitions or restrictions on remanufactured equipment and parts. If a Party adopts or maintains import and export prohibitions or restrictions to used equipment and parts, it shall not apply those measures to remanufactured equipment and parts.
3. A Party may require that remanufactured equipment and parts be identified as such for distribution or sale in its territory and that they meet all applicable technical requirements that apply to equivalent equipment and parts in new condition.

[placeholder: *Article 9 Licensing*]

Article 10

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 products covered. This is without prejudice to the right to adopt measures necessary for road safety, the protection of the environment or public health and the prevention of deceptive practices.

Article 11

Joint Cooperation

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