

ANNEX 2-C

MOTOR VEHICLES AND PARTS

ARTICLE 1: GENERAL PROVISIONS

1. Recognising the importance of motor vehicles and parts for growth, employment and trade for each Party, the Parties confirm their shared objectives and principles, for these products, of:

- (a) ensuring full reciprocal market access by elimination of tariffs and non-tariff obstacles to bilateral trade pursuant to this Agreement;
- (b) promoting compatibility of regulations based on international standards;
- (c) establishing competitive market conditions based on principles of openness, non-discrimination and transparency;
- (d) securing the protection of human health, safety and environment; and
- (e) enhancing cooperation to foster continued mutually beneficial development in trade.

2. This Annex shall apply to all forms of motor vehicles, systems and parts thereof falling under Chapters 40, 84, 85, 87 and 94 of the HS, except those products set out in Appendix 2-C-1.

ARTICLE 2: REGULATORY CONVERGENCE

1. The Parties recognise that the World Forum for Harmonisation of Vehicle Regulations (hereinafter referred to as the “WP.29”), within the framework of the United Nations Economic Commission for Europe (hereinafter referred to as the “UN ECE”), is the relevant international standard-setting body for the products covered by this Annex.

2. The Parties agree to participate actively in the development of regulations in WP.29 and shall cooperate for the adoption, without undue delay, of new regulations by WP.29.

ARTICLE 3: MARKET ACCESS

Each Party shall allow on its market the products originating in the other Party, in accordance with this Article:

- (a) (i) the competent approval authorities in the European Union shall accept for the purpose of EU type-approval any product that complies with the

requirements listed in Table 1 of Appendix 2-C-2 as complying with the corresponding provisions of the applicable EU technical regulations¹;

- (ii) Korea shall accept any product that complies with the requirements listed in Table 1 of Appendix 2-C-3 as complying with the corresponding provisions of the applicable Korean technical regulations¹;
 - (iii) The Parties shall harmonise the regulations listed in Table 2 of Appendix 2-C-2, in case of the European Union, and in Table 2 of Appendix 2-C-3, in case of Korea, with the corresponding UN ECE Regulations or Global Technical Regulations (hereinafter referred to as the “GTR”) within a period of five years of the entry into force of this Agreement, unless exceptionally a Party demonstrates that a specific UN ECE Regulation or GTR would be ineffective or inappropriate for the fulfilment of legitimate objectives pursued on the basis of substantiated scientific or technical information^{1,2}; and
 - (iv) If there arises any trade issue with regard to the technical regulations not covered by subparagraph (a)(i) or (a)(ii) or, with regard to the technical regulations covered by subparagraph (a)(iii) while there is no harmonisation, upon request of either Party, the Parties shall enter into consultations to seek a mutually satisfactory solution. In these consultations the Party intending to impose a measure materially affecting market access conditions shall provide the other Party with the basis of its intended decision, including a detailed explanation in terms of the relevant scientific or technical information.²
- (b) The Parties shall ensure that their respective procedures are accomplished without undue delay for the marketing of the products covered by this Annex.
 - (c) Each Party shall promptly communicate to the concerned economic operators any decision taken on applications regarding conformity assessment, as well as the basis for any such decision and information on available legal remedies.
 - (d) The Parties shall review Appendices 2-C-2 and 2-C-3 of this Annex no less than every three years from the entry into force of this Agreement with a view to furthering the acceptance of products as set out in subparagraph (a) of this Article, taking into account any regulatory developments that may have occurred internationally or in the Parties. Any modifications to these Appendices shall be decided upon by the Trade Committee.

ARTICLE 4: CONSOLIDATION OF REGULATORY CONVERGENCE

¹ The classification of the products, for the purpose of applying Article 3(a)(i) through 3(a)(iii) and determining the applicable regulations, shall be that under the legislation of the importing Party.

² The Parties understand that the regulations covered by subparagraph (a)(iii) and (a)(iv) existing at the time of signature of this Agreement have not caused serious market access problems and under the provisions of these subparagraphs they will not result in worsening of the market access conditions as compared with the situation prevailing at that time.

1. The Parties shall:

- (a) at any time refrain from introducing any new domestic technical regulations diverging from UN ECE Regulations or GTR in areas covered by such regulations, or where the completion of such regulations is imminent, in particular in the areas covered by Appendix 2-C-2, in the case of the European Union, and Appendix 2-C-3, in the case of Korea; and
- (b) as soon as practicable after any new UN ECE Regulations or GTR is adopted by UN ECE in areas covered by existing domestic technical regulations, provide treatment for products originating in the other Party complying with UN ECE Regulations or GTR in accordance with Article 3 of this Annex, *mutatis mutandis*,

unless there are substantiated reasons based on scientific or technical information 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. In these cases, any such reasons shall be notified to the other Party and made public.

2. In so far as a Party introduces or maintains technical regulations that differ from existing UN ECE Regulations in areas covered by these UN ECE Regulations, that Party shall review these technical regulations no less than every three years from the entry into force of this Agreement in order to assess whether the reasons for the imposition of the relevant technical regulations remain valid. The outcome from these reviews, as well as the technical or scientific information underpinning the outcome of these reviews, shall be made public and notified to the other Party upon request.

3. In areas where there are no UN ECE Regulations or GTR and at least one Party introduces or maintains a technical regulation, the Parties shall consult on the possibility for developing international standards covering such areas. If the development of such international standards is not possible or is inappropriate, and if the Parties introduce or maintain domestic technical regulations in such areas, the Parties undertake to consult on the possibility for approximation of their respective regulations.

ARTICLE 5: MFN TREATMENT

With respect to internal taxes and emission regulations on products covered by this Annex, each Party shall accord to the products originating in the other Party no less favourable treatment than that accorded to the like products originating in any third country not party to this Agreement, including as provided in any free trade agreement with such third country.

ARTICLE 6: PRODUCTS WITH NEW TECHNOLOGIES OR NEW FEATURES

1. Neither Party shall prevent or unduly delay the placing on its market of a product on the ground that it incorporates a new technology or a new feature which has not yet been regulated unless it can demonstrate, based on scientific or technical information, 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 placing on the market or require the withdrawal from the market of a product 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 operators concerned. The notification shall include all relevant scientific or technical information.

ARTICLE 7: OTHER 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 measures necessary for road safety, the protection of the environment or public health and the prevention of deceptive practices provided such measures are based on substantiated scientific or technical information.

ARTICLE 8: APPLICATION OF REGULATIONS

1. When a Party accepts compliance or harmonisation with UN ECE requirements in conformity with Article 3 of this Annex, UN ECE type-approval certificates issued by competent authorities shall be considered as providing a presumption of conformity. If a Party finds that a certain product covered by a type-approval certificate does not conform to the approved type, it shall inform the other Party. This paragraph is without prejudice to the Parties' right to take appropriate measures, as set out in paragraphs 2 and 3.

2. The competent administrative authorities of each Party may verify by random sampling in accordance with its domestic legislation that the products, including those self-certified by manufacturers, comply as appropriate with:

- (a) all the technical regulations of that Party; or
- (b) the domestic technical regulations and the other requirements, as set out in Article 3(a) of this Annex.

Each Party may require the supplier to withdraw a product from its market in case the product concerned does not comply with those regulations or requirements as the case may be.

3. Type-approval can be refused if the documentation is incomplete, the relevant procedures for verifying conformity of production are not complied with, or the products concerned do not comply as appropriate with:

- (a) all the technical regulations of a Party; or
- (b) a Party's technical regulations and the other requirements, as set out in Article 3(a) of this Annex.

4. Notwithstanding compliance with the technical regulations or the requirements referred to in Article 3(a) of this Annex, a Party may, in exceptional circumstances, refuse to a

supplier the placing of a product on its market or require a supplier to withdraw that product from its market if there are urgent and compelling risks for road safety, public health or the environment based on substantiated scientific or technical information. Such a refusal shall not constitute a means of arbitrary or unjustifiable discrimination against the products of the other Party or a disguised restriction on trade. Before it is implemented, any such temporary emergency measure shall be notified to the other Party and to the supplier with an objective, reasoned and sufficiently detailed explanation of the motivation for the measure.

ARTICLE 9: WORKING GROUP ON MOTOR VEHICLES AND PARTS

1. In order to further facilitate trade in motor vehicles and parts and to address market access problems before they arise, the Parties agree to cooperate and to consult promptly on any matters concerning the application of this Annex. They agree to inform each other of any measure that may affect trade in products falling under the scope of this Annex, in accordance with Chapter Four (Technical Barriers to Trade). Upon request, each Party shall in a timely manner respond in writing to comments and questions regarding any problems arising with respect to any such measure, and be ready to enter into consultations on such measure with a view to seeking a mutually satisfactory outcome.

2. The Working Group on Motor Vehicles and Parts established pursuant to Article 15.3.1 (Working Groups) shall be responsible for the effective implementation of, and may consider any matter relating to, this Annex. In particular, the Working Group shall be responsible for:

- (a) preparing the Parties' cooperation with respect to the works of WP.29, in line with Article 2 of this Annex;
- (b) supervising the full implementation of the commitments set out in Article 3 of this Annex, including:
 - (i) discussing progress in the implementation of the harmonisation process set out in Article 3(a)(iii);
 - (ii) providing a forum for the consultations envisaged in Article 3(a)(iv);
and
 - (iii) preparing decisions of the Trade Committee set out in Article 3(d);
- (c) discussing the reviews described in Article 4.2 of this Annex and holding the consultations set out in Article 4.3 of this Annex;
- (d) discussing, as appropriate, the notifications envisaged in Articles 6 and 8 of this Annex;
- (e) considering the application of technical regulations to motor vehicles imported under different channels and making recommendations where appropriate; and
- (f) any matters, as appropriate, regarding the practical implementation of transitional arrangements on on-board diagnostic (hereinafter referred to as the

“OBD”) and emissions set out in Table 1 of Appendix 2-C-3.

3. The Working Group shall meet at least once a year, unless agreed otherwise. Its meetings shall normally be held in conjunction with meetings of WP.29 or any other forum addressing automotive issues. The Working Group may also carry out its works by e-mail, teleconference or videoconference or any other appropriate means of communications.

ARTICLE 10: COMPLIANCE

1. Chapter Fourteen (Dispute Settlement) shall apply to this Annex subject to the following modifications:

- (a) Dispute concerning the interpretation or application of this Annex shall be considered a matter of urgency;
- (b) The period foreseen for consultations under Article 14.3 (Consultations) shall be reduced from 30 days to 15 days;
- (c) The period foreseen for the issuance of the interim panel report under Article 14.6 (Interim Panel Report) shall be reduced from 90 days to 60 days;
- (d) The period foreseen for the issuance of the arbitration panel ruling under Article 14.7 (Arbitration Panel Ruling) shall be reduced from 120 days to 75 days; and
- (e) The following sentence shall be deemed to be added to Article 14.9 (The Reasonable Period of Time for Compliance): “The Party complained against shall comply with the arbitration panel ruling without delay. If immediate compliance is not possible, the reasonable period of time should normally not exceed 90 days and in no case it shall exceed 150 days from the issuance of the arbitration panel ruling in cases where the adoption of a measure of general application that does not require legislative action is necessary for the Party complained against in order to bring itself into compliance.”

2. The Parties may agree not to apply specific provisions of this Article.