

This document contains the consolidated text as it stands at the end of the XXXIInd round of negotiations (21 February – 2 March 2018) on the Annex on Motor vehicles and equipment and parts thereof in the Trade Part of the EU-Mercosur Association Agreement. This is without prejudice to the final outcome of negotiations. Both sides reserve the right to make subsequent modifications to their proposals.

The decision whether to have this Annex or to include a similar language after Article 4 in the main text is to be decided at a later stage

**[EU: DRAFT ANNEX**

**MOTOR VEHICLES AND EQUIPMENT AND PARTS THEREOF]**

**[MCS: Article 4bis - – Trade Facilitating Initiatives in the field of motor vehicle regulations**

- 1. For the purposes of this article, the Parties agree to proceed to a joint analysis of the automotive sector aiming at possible Trade Facilitating Initiatives, according to the procedures established on Article 4.**
- 2. The Parties affirm their joint commitment to improve vehicle safety and environmental performance**
- 3. The Parties recognize the right of each Party to determine its desired level of health, safety, and environmental and consumer protection.**
- 4. The Parties desire to enhance cooperation and to increase the efficient use of resources in matters that relate to motor vehicle technical regulations, in a manner that does not compromise each Party's ability to fulfill its responsibilities.**
- 5. The purpose of this article is to strengthen cooperation and communication, including the exchange of information, on motor vehicle safety and environmental performance research activities related to the development of new technical regulations or related standards.]**

*[EU: Article 2]*

**Product Scope**

This Annex shall apply to trade between the Parties of all categories of self-propelled road vehicles (including passenger, cars, buses, motor cycles, vans, trucks), together with their equipment and parts, falling inter alia under Chapters 40, 84, 85, 87, 90 and 94 of the HS 2017 (hereinafter referred to as "products covered").

[EU: Article 3

### **Objectives]**

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

- (a) recognise the right of each Party to determine its desired level of health, safety, as well as environmental and consumer protection;
- (b) Eliminate and prevent unnecessary technical barriers to bilateral trade and simplify, whenever possible, technical regulations and conformity assessment procedures;
- (c) Promote [MCS: **mutual**] recognition of approvals **based on [EU: international] [MCS: common] standards;**
- (d) establish competitive market conditions based on principles of openness, non-discrimination and transparency;
- (e) enhance cooperation to foster continued mutually beneficial development in trade.

[EU: Article 4

### **International Standards**

1. **The Parties recognise that the UN ECE Regulations of the WP.29 are relevant international standards for the products covered by this Annex.]**

[EU: Article 5

### **Market Access**

1. **[EU: The Parties shall accept, for the purposes of proving compliance with their domestic technical requirements, the test reports issued by technical laboratories validly appointed by the Party under the EU or the UN ECE type approval systems; without any further requirement such as accreditation from any authority of the other Party or the presence during the tests of an official authorised by the authority of the other Party.] [EU Feb/18: For clarity, exporters may use established branches or sub-contractors of the appointed laboratories located in the territory of the other Party in the accordance with the relevant legal requirements. A Party may refuse the acceptance of a test report issue by such appointed laboratories for the items listed in Appendix or in case the test report would provide for a lower level of safety and environmental protection or public health prescribed in the relevant domestic technical requirements.] [MCS: The Parties agree to evaluate, on a case-by-case and reciprocal basis, for the purposes of proving compliance with their domestic technical requirements, the acceptance, by the importing Party, of test reports issued by accredited laboratories located in the territory of the exporting Party.]**

**[Alt MCS Feb/18: The Parties shall accept, for the purposes of proving compliance with their domestic technical requirements, the test reports issued by technical laboratories appointed by the Party under the EU, Mercosur Parties or the UN ECE type approval systems, when the technical requirements are considered equivalent. Exporters may use established branches or subcontractors of the appointed laboratories located in the territory of the other Party in accordance with the relevant legal requirements. A Party may refuse the acceptance of test report issued by such laboratories for the items in case of the test report does not provide the required level of safety and environment protection or public health prescribed in the relevant domestic technical requirements, under written justification and technical reasons.]**

**A list of priority regulations and/or conformity assessment procedures will be mutually defined, as set in a schedule also to be agreed between the Parties.]**

*In February 2018, EU presented flexibility language conditional upon acceptance of the first sentence of its proposal, this language is under legal scrutiny by the EU. This does not imply acceptance of the MCS brackets.*

*MCS presented the Alternative wording to ensure balance and reciprocal commitments. This paragraph should be considered wherever Motor Vehicle Market Access is addressed.*

2. **[EU: The Mercosur Parties shall accept the type approval certificates issued in conformity with the EU and UN ECE technical regulations listed in Annex List A, as well as their updates, unless doing so would provide for lower levels of safety or environmental protection than the amendments introduced in its domestic regulations.] [MCS: The Parties agree to evaluate, on a case-by-case and reciprocal basis, the acceptance of certificates issued by the other Party in conformity with the importing Party requirements.]**
  
3. **The Parties shall engage in technical consultation with a view [EU: to determining, no later than three years after the entry into force of this Agreement, whether the UN ECE technical regulations listed in Annex List B should also be incorporated in the list of technical regulations listed in Annex List A, for which the Mercosur countries accept the EU and UN ECE type approval certificates]. to supporting Mercosur and/or Mercosur countries evaluation on possible incorporation, with any necessary adaptations, of the United Nations Regulations into Mercosur or Mercosur countries *Motor Vehicle Safety Regulations* [MCS: if the correspondent approvals are recognized by EU when issued in Mercosur.]**

*As EU stressed that there is no possibility of reciprocity in recognizing certificates issued in Mercosur, no alternative language is possible to negotiate on that.*

The Parties shall engage in technical consultation with a view to supporting Mercosur and/or Mercosur countries evaluation on possible incorporation, with any necessary adaptations, of the United Nations Regulations into Mercosur or Mercosur countries *Motor Vehicle Safety Regulations*.

*MCS considers the agreed text as a cooperation issue if the EU withdraws its proposal.*

*EU noted that the issue of cooperation can only be considered agreed if substantive Market Access provision is also agreed.*

4. **[EU: The Parties shall also engage in further technical consultations with a view to determining, no later than three years after the entry into force of this Agreement, whether other technical regulations should be included in Annex List A.]**
5. Each Party shall continue establishing and maintaining a list of **[EU: both EU and UN ECE]** certificates **[EU: and test reports]** which are recognised for the purpose of obtaining a Mercosur Party or an EU type approval. Each Party shall make those lists publicly available.
6. *(deleted)*
7. **[EU: 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 been regulated, unless it can demonstrate that this new technology or new feature creates a risk for human health, safety or the environment.]**
8. 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.

*[EU: Article 6*

#### **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.]**

With the purpose of promoting regulatory convergence, the Parties shall exchange information, to the extent practicable, on their respective technical regulations related to motor vehicle safety and environmental protection.

**[MCS: 11. The Parties shall endeavour to share information, cooperate and maintain an open and ongoing dialogue on activities in the following areas:**

- a. **the development, establishment and the post-implementation reviews of technical regulations or related standards;**
- b. **the development and dissemination of information for consumer use related to motor vehicle regulations or related standards;**
- c. **the exchange of research, information and results linked to the development of new vehicle safety regulations or related standards, advanced emission reduction,**

- electric vehicle technologies. The identification of safety-related or emission-related defects and non-compliance with technical regulations;
- d. share and discuss research and development plans on motor vehicle safety and environmental technical regulations or related standards;
  - e. conduct joint analyses, develop methodologies and approaches, as mutually beneficial, practical and convenient, to assist and facilitate the development of motor vehicle technical regulations or related standards; and
  - f. develop additional provisions for cooperation.

Additionally, the parties endeavor to meet at least annually by video-conference or, if directly, on an alternating basis in Mercosur and in the European Union.]

[EU: 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) **UN ECE Regulations** means *Technical Regulations* adopted in accordance with the 1958 Agreement.
- (d) **EU Regulations** means *Technical Regulations* as covered by the regulatory vehicle type-approval framework applicable in the European Union.
- (e) **HS 2017** means the 2017 edition of Harmonised System Nomenclature issued by the World Custom Organisation.
- (f) **Global Technical Regulation (GTR)** means Global Technical Regulations established and placed on the Global Registry under the 1998 Agreement<sup>1</sup>;

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.

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<sup>1</sup> *Agreement concerning the Establishing of Global Technical Regulations for Wheeled Vehicles, Equipment and Parts which can be fitted and/or used on Wheeled Vehicles*, done at Geneva, Switzerland, on June 25, 1998

### Annex Technical regulations

List referred to in Article 5

List A –Type-approval certificates and/or test reports, referred to in Article 5.2

Vehicle Categories M and N

<b>Requirement</b>	<b>EU Directives or Regulations</b>	<b>UN Regulations</b>
Emissions spark ignition, compression ignition, LPG, CNG vehicles	Regulation (EC) 715/2007 Euro VI heavy duty vehicles	ECE R24, ECE R49, ECE R83
CO2 emission/fuel consumption	Regulation (EC) 595/2009 Regulation (EU) 333/2014	ECE R101
LPG tanks	Regulation (EC) 661/2009	ECE R67
Audible warning	Regulation (EC) 661/2009	ECE R28
Indirect vision devices	Regulation (EC) 661/2009	ECE R46
Retroreflectors	Regulation (EC) 661/2009	ECE R3
Direction indicators	Regulation (EC) 661/2009	ECE - R48 or RO6
Filament lamps	Regulation (EC) 661/2009	ECE R37
Identification of controls, tell-tales and indicators	Regulation (EC) 661/2009	ECE R121
Safety-belts, restraint systems	Regulation (EC) 661/2009	ECE R14 or ECE R16
Head restraints (combined with seats)	Regulation (EC) 661/2009	ECE R17
Head restraints	Regulation (EC) 661/2009	ECE R25
Safety glazing	Regulation (EC) 661/2009	ECE R43
Buses and coaches	Regulation (EC) 661/2009	ECE R107
Strength of superstructure (buses and coaches)	Regulation (EC) 661/2009	ECE R66
Agricultural tractors – roll over protection		OECD codes 3, 4, 6, 7, 8

**List B – Additional Certificates or test reports to be considered for inclusion in the list A above**

Vehicle Categories M and N

<b>Requirement</b>	<b>EU Directives or Regulations</b>	<b>UN Regulations</b>
Whole vehicle	Directive 2007/46/EC	UNECE Reg 0 -IWVTA
Braking (service & parking)	Regulation (EC) 661/2009	ECE R13 Braking (categories M, N and O) or ECE R13H Braking (passenger cars)
ABS & Advanced emergency Braking Systems (AEBS)	Regulation (EU) 347/2012 or Regulation (EU) 2015/562	ECE R13 or ECE R13H or ECE R131
Protection of the occupants in frontal collision	Regulation (EC) 661/2009	UN R94,

Protection of the occupants in lateral collision	Regulation (EC) 661/2009	UN R 95
Tyres	Regulation (EU) 458/2011	ECE R30 (motor vehicles and their trailers) ó ECE R54 commercial vehicles and their trailers)
Battery electric vehicles safety		ECE R100

Vehicle Category L

<b>Requirement</b>	<b>EU Directives or Regulations</b>	<b>UN Regulations</b>
Whole vehicle	Regulation (EU) 168/2013	No When available
Noise	Commission Delegated Regulation (EU) 134/2014 and Regulation (EU) No 168/2013	ECE R41 noise emissions and ECE R09 (for tricycles)

Vehicle Categories T & C

<b>Requirement</b>	<b>EU Directives or Regulations</b>	<b>UN Regulations</b>
Whole vehicle	Regulation (EU) 167/2013	No When available
Diesel emission (agricultural tractors)	Directive 2000/25/EC	ECE R96
Braking	Commission Delegated Regulation (EU) 2015/68 and Regulation (EU) 167/2013	No

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