

MOTOR VEHICLES AND MOTOR VEHICLES PARTS AND EQUIPMENT

ARTICLE 1

General Provisions

1. This Annex applies to the following products which originate in either Party and which fall, in particular, under Chapters 40, 84, 85, 87 and 94 of HS 2012:
 - (a) whole motor vehicles of category M1 as defined in the UNECE Regulations, and parts and equipment thereof to the extent that these parts and equipment are regulated in UNECE Regulations applicable to whole motor vehicles of category M1; and
 - (b) parts and equipment of motor vehicles of categories M2 and N3 as defined in the UNECE Regulations to the extent that these parts and equipment are regulated in UNECE Regulations that are also applicable to whole vehicles of category M1.

2. For the purposes of this Annex:

- (a) "domestic technical regulations" includes markings and conformity assessment procedures;
- (b) "products covered by this Annex" means all the products listed in subparagraphs 1(a) and 1(b);
- (c) "motor vehicles" and "parts and equipment" have the meaning as defined in the UNECE 1958 Agreement and the Regulations annexed to it;
- (d) "originating" refers to the origin of a good as determined in accordance with the rules of origin set out in Protocol 1 (Concerning the Definition of the Concept of "Originating Products" and Methods of Administrative Cooperation);
- (e) "UNECE" means the United Nations Economic Commission for Europe;

- (f) "UNECE 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*, administered by the World Forum for Harmonization of Vehicle Regulations; and
- (g) "UNECE Regulations" means the Regulations annexed to the UNECE 1958 Agreement.

3. With regard to the products covered by this Annex, the Parties confirm the following shared objectives and principles:

- (a) eliminating and preventing non-tariff barriers to bilateral trade;
- (b) promoting the compatibility and convergence of regulations based on international standards;
- (c) promoting the recognition of approvals based in particular on approval schemes in accordance with the UNECE 1958 Agreement;
- (d) establishing competitive market conditions based on principles of openness, non-discrimination and transparency;

- (e) protecting human health, safety and the environment; and
- (f) enhancing cooperation to foster continued mutually beneficial development in trade.

ARTICLE 2

International Standards

1. The Parties recognise that the UNECE Regulations are the relevant international standards for the products covered by this Annex.
2. Viet Nam is encouraged to become a Contracting Party to the UNECE 1958 Agreement.
3. Each Party shall recognise technical requirements included in UNECE Regulations as providing a sufficient level of protection for ensuring safety, or the protection of the environment or human health in the area regulated by such UNECE Regulations. A Party shall not require any additional technical requirements in the area regulated by such UNECE Regulations.

ARTICLE 3

Regulatory Convergence

1. Each Party shall refrain from introducing new domestic technical regulations diverging from the technical requirements of existing UNECE Regulations or UNECE Regulations the completion of which is imminent, in areas covered by those Regulations, unless there are substantiated reasons, based on scientific or technical information, why a specific technical requirement of a UNECE Regulation is ineffective or inappropriate for ensuring safety, or the protection of the environment or human health.
2. A Party which adopts new domestic technical regulations in accordance with paragraph 1 shall, upon request from the other Party, identify the parts of the domestic technical regulations which substantially deviate from the relevant technical requirements, markings or conformity assessment procedures of UNECE Regulations. That Party shall provide due justification as to the reasons for the deviation.

3. If a Party has adopted, in accordance with paragraph 1, and maintains domestic technical regulations that deviate from existing technical requirements, markings or conformity assessment procedures of UNECE Regulations, that Party shall review them at regular intervals, not exceeding five years, with a view to increasing their convergence with the relevant technical requirements, markings or conformity assessment procedures of UNECE Regulations. When reviewing its domestic technical regulations the Party shall consider whether the circumstances that gave rise to the deviation still exist. The outcome of those reviews, including the scientific and technical information which has been used, shall be notified to the other Party upon request.

ARTICLE 4

Market Access

1. Each Party shall accept on its market products covered by this Annex which are covered by a valid UNECE type-approval certificate as compliant with its domestic technical requirements or conformity assessment procedures, without further testing or marking requirements to verify or attest compliance with requirements in the area regulated by the relevant UNECE Regulations.

2. To parts and equipment referred to in subparagraphs 1(a) and 1(b) of Article 1 (General Provisions) of this Annex the following rules apply:
- (a) parts and equipment shall at the time of importation be accompanied by the relevant UNECE type-approval certificate. The importing Party shall endeavour to consider a valid UNECE type-approval marking affixed to those parts and equipment as sufficient proof of the existence of a valid UNECE type-approval certificate;
 - (b) after Viet Nam has become a Contracting Party to the UNECE 1958 Agreement, it shall accept, according to the principles and procedures of the UNECE 1958 Agreement, a valid UNECE type-approval marking affixed to a part or equipment covered by this Annex as sufficient proof of the existence of a valid UNECE type-approval certificate where such UNECE type-approval marking is explicitly prescribed by the relevant UNECE Regulations which both Parties are bound to apply;
 - (c) after Viet Nam has become a Contracting Party to the UNECE 1958 Agreement, the Union shall accept for parts and equipment a valid UNECE type-approval issued by a Vietnamese type-approval authority in accordance with the rights and obligations under the UNECE 1958 Agreement.

3. To whole motor vehicles of UNECE category M1¹ referred to in subparagraph 1(a) of Article 1 (General Provisions) of this Annex the following rules apply:

- (a) Viet Nam shall accept on its market as compliant with its domestic technical regulations, without further testing requirements, such whole vehicles covered by this category for which a valid UNECE International Whole Vehicle Type Approval certificate has been issued by a Union type-approval authority according to the principles and procedures of the UNECE 1958 Agreement. The vehicle type that is imported for the first time into Viet Nam shall be accompanied by the valid UNECE International Whole Vehicle Type Approval certificate;

¹ For greater certainty, this includes pick-up vehicles classified in UNECE vehicle category M1.

- (b) for a period of seven years, starting after five years from the date of entry into force of this Agreement, Viet Nam shall accept a valid whole vehicle EC Certificate of Conformity. The vehicle type that is imported for the first time into Viet Nam shall be accompanied by the relevant whole vehicle EC type-approval certificate; for the following importations of such vehicle type, the EC Certificate of Conformity shall be considered as sufficient proof for the existence of a valid EC whole vehicle type-approval certificate; when a UNECE International Whole Vehicle Type Approval certificate is available for whole motor vehicles, Viet Nam shall notify the Union as to whether it continues accepting valid whole vehicle EC Certificates of Conformity as alternative to the UNECE International Whole Vehicle Type Approval certificate of a specific vehicle category;

- (c) after Viet Nam has become a Contracting Party to the UNECE 1958 Agreement and is applying UN Regulation No. 0 – Uniform provisions concerning the International Whole Vehicle Type Approval (IWVTA), the Union shall accept valid UNECE International Whole Vehicle Type Approval certificates issued by Viet Nam's type-approval authority in accordance with the rights and obligations under the UNECE 1958 Agreement.

4. Every month or upon notification to the UNECE, the competent authorities of each Party, which is a Contracting Party to the UNECE 1958 Agreement, shall send to the competent authorities of the other Party a list of the products covered by this Annex, approvals of which it has refused to grant or has withdrawn during the preceding period. In addition, on receiving a request from the competent authority of the other Party, a Party shall send, without delay, to that competent authority a copy of all relevant information on which it based its decision to grant, refuse to grant, or to withdraw an approval of a whole motor vehicle or an approval of parts or equipment.

5. Should the competent authorities of a Party find that certain products covered by this Annex bearing approval markings issued by a type-approval authority of the other Party under UNECE Regulations, or where applicable, Union laws and regulations for whole motor vehicles, do not conform to the approved type, they shall advise the competent authorities of the other Party which issued the approval. The other Party shall take the necessary steps to bring these products of its manufacturers into conformity with the approved types and shall advise the other Party of the steps it has taken, which may include, if necessary, the withdrawal of approval. Where there might be a threat to safety or to the environment, the Party which issued the approval and after receiving the information about the non-conformity to the approved type or types shall inform the other Party about the situation. A Party may prohibit the sale and use of such products covered by this Annex. In such cases and upon request, the Party which issued the approval shall send to the other Party all relevant information on the basis of which the approval has been granted.

6. The competent authorities of each Party may, in accordance with its domestic legislation, verify by random sampling whether the products covered by this Annex comply with the relevant domestic technical regulations and requirements. The compliance is attested, in the case of whole motor vehicles, by a UNECE International Whole Vehicle Type Approval certificate or, where applicable, by an EC type-approval certificate, and, in the case of parts and equipment, by a UNECE type-approval certificate showing compliance with the relevant UNECE Regulations. Each Party may require the supplier to withdraw a product covered by this Annex from its market in case the product concerned does not comply with those relevant domestic technical regulations and requirements.

ARTICLE 5

Products with New Technologies or New Features

1. Subject to its domestic legislation, a Party shall not unduly delay the placing on its market of parts and equipment referred to in subparagraphs 1(a) and 1(b) of Article 1 (General Provisions) of this Annex on the grounds that they incorporate a new technology or a new feature.

2. When a Party refuses the placing on its market, or requires the withdrawal from its market, of parts and equipment of the other Party referred to in subparagraphs 1(a) and 1(b) of Article 1 (General Provisions) of this Annex on the grounds that they incorporate a new technology or a new feature creating a risk for human health, safety or the environment, it shall immediately notify this decision and the reasons therefor to the economic operators concerned.

ARTICLE 6

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 of each Party to adopt measures necessary for safety, protection of the environment or human health and the prevention of deceptive practices, provided that such measures are based on substantiated scientific or technical information.

ARTICLE 7

Cooperation

1. In the Working Group on Motor Vehicles and Parts established by Article 17.3 (Working Groups), the Parties shall cooperate and exchange information on any issues relevant for the implementation of this Annex.
2. Pursuant to Chapter 16 (Cooperation and Capacity Building), a Party shall, upon request by the other Party, give appropriate consideration to proposals that the other Party makes for cooperation under this Annex. That cooperation shall be undertaken, *inter alia*, through dialogue in appropriate channels, joint projects, technical assistance and capacity-building programmes on technical regulations and conformity assessment procedures, as mutually agreed.
3. Subject to Chapter 16 (Cooperation and Capacity Building), cooperation shall focus on building up technical capacity with regard to enhancing testing competence and procedures for acceptance of type-approvals. Cooperation may include training, internships or exchange of experiences for officials of Viet Nam's type-approval authority in Union type-approval authorities or similar projects.

ARTICLE 8

Implementation

1. The Parties agree that the Working Group on Motor Vehicles and Parts shall facilitate the implementation of this Annex.
2. The Working Group on Motor Vehicles and Parts shall monitor the effective implementation of, and may consider any matter relating to, this Annex. Each Party shall establish a contact point for effective communication.
3. Upon request of a Party, but not before 10 years from the date of entry into force of this Agreement, the Parties may review this Annex and may discuss the coverage of UNECE categories L, M and N.

ARTICLE 9

Date of Application

Unless otherwise specified, this Annex applies after three years from the date of entry into force of this Agreement.
