

This document is the European Union's proposal for an annex on motor vehicles and motor vehicles' parts. It was tabled for discussion with the US in the negotiating round of 11-15 July 2016 and made public on 14 July 2016. The actual text in the final agreement will be a result of talks between the EU and US.

NOTE: The EU reserves the right to make subsequent modifications to this text and to complement it at a later stage, by modifying, supplementing or withdrawing all, or any part, at any time.

The relationship between sectorial annexes and the architecture of TTIP, including the applicability or not of general exceptions and dispute settlement, will be considered at a later stage.

EU PROPOSAL FOR AN ANNEX ON MOTOR VEHICLES AND MOTOR VEHICLES' PARTS

ARTICLE 1: GENERAL PRINCIPLES AND OBJECTIVES

1. The Parties confirm their shared general principles and objectives, of:
 - (a) aiming at improving, and not reducing or otherwise compromising the level of protection in public policy areas such as safety, health, environmental protection, energy efficiency and anti-theft performance of wheeled vehicles, equipment and parts which can be fitted and/or used on wheeled vehicles, whilst promoting regulatory convergence. The Parties share the intention of achieving a high level of protection in these areas;
 - (b) facilitating trade between the Parties in order to increase opportunities for manufacturing, employment, innovation, and competitiveness in a globalised market through elimination and prevention of unnecessary non-tariff barriers to bilateral trade;
 - (c) promoting compatibility and convergence of technical regulations based on international standards, in particular through promoting the development and implementation of Global Technical Regulations (GTR) pursuant to the 1998 Agreement, and through efficient and transparent functioning of the 1998 Agreement;
 - (d) responding, through coordinated research, to the increasing importance of bilateral cooperation regarding research projects and related future technical regulations,
2. Nothing in this Annex shall affect the ability of each Party to apply its fundamental principles governing regulatory measures in its jurisdiction, for example in the areas of risk assessment and risk management¹.

and therefore agree to:

- (a) recognise equivalence of each Party's technical regulations for which it is established that they provide at least the same level of protection;

¹ For the EU, such principles include those established in the Treaty on the Functioning of the European Union as well as in Regulations and Directives adopted pursuant to Article 289 of the Treaty on the Functioning of the European Union.

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- (b) strengthen harmonisation efforts through international cooperation in the World Forum for the Harmonization of Vehicle Regulations to maintain and further improve high levels of protection whilst enhancing the value to international trade, consumer choice and product affordability by increasing convergences in existing and future technical regulations and their related standards.
- (c) intensify regulatory cooperation in areas where technical differences remain with a view to achieving over time convergence in trade relevant regulatory policy areas;
- (d) coordinate research programmes and inform about results delivered by such programmes of relevance for the regulation of covered products.

ARTICLE 2: DEFINITIONS

For the purpose of this Annex:

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*², administered by the World Forum for Harmonization of Vehicle Regulations and all subsequent amendments and revisions;

GTR means *Global Technical Regulations* established and placed on the Global Registry in accordance with the 1998 Agreement;

HS 2012 means 2012 edition of Harmonized System Nomenclature issued by the World Custom Organisation;

Responsible authority means the European Commission in the case of the European Union and the National Highway Traffic Safety Administration and the Environmental Protection Agency in the case of the United States of America;

Terms used in this Annex have the same meaning as defined in the 1998 Agreement or in Annex 1 to the WTO Agreement on Technical Barriers to Trade.

ARTICLE 3: SCOPE

This Annex applies to each Party's technical regulations, test procedures and marking requirements related to wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles as defined under the 1998 Agreement falling in particular under HS Chapters 40, 84, 85, 87 and 94 of HS 2012 (hereafter: "covered products").

ARTICLE 4: RELEVANT INTERNATIONAL ORGANISATIONS AND BODIES

The Parties recognise that the World Forum for Harmonization of Vehicle Regulations is the main international standard-setting body for the covered products, and that GTR are relevant international standards within the meaning of this Annex for covered products.

² Done at Geneva on 25 June 1998. See document ECE/TRANS/132.

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ARTICLE 5: ESTABLISHMENT OF EQUIVALENCE

1. The corresponding technical regulation or group of technical regulations of each Party, set out in Appendix 1, shall be considered equivalent. The recognition of equivalence may be subject to additional technical requirements as set out therein.

Any additional technical requirements shall apply only to given products destined for exportation to the other Party without affecting technical requirements for such products destined for the domestic market.

2. Each Party shall consider covered products fulfilling the equivalent technical requirements pursuant to Appendix 1 as complying with the corresponding domestic technical requirements and shall ensure that they are treated, in any administrative or judicial proceedings, in a manner no less favourable than domestic products fulfilling the corresponding domestic technical requirements.

3. The recognition of equivalence of technical regulations or groups of technical regulations for a particular product with regard to acceptance and placing on the other Party's market is without prejudice to each Party's right to maintain or amend its regulatory and administrative requirements related to conformity assessment procedures and market surveillance.

4. The Parties shall cooperate to maintain over time the equivalence established in Appendix 1. Where technical regulations or groups of technical regulations of either Party have undergone substantial revisions which impede the application of equivalence as established under Appendix 1, the Party shall inform the other Party, and the Parties shall update Appendix 1, as appropriate.

ARTICLE 6: REGULATORY CO-OPERATION AND CONVERGENCE AT INTERNATIONAL LEVEL

1. The Parties confirm their intention to strengthen the 1998 Agreement through their active participation in the development and expeditious transposition of GTRs developed thereunder.

2. Each Party commits to improve the alignment of its respective technical requirements, regulatory and administrative measures and regulatory activities with those developed in the framework of the 1998 Agreement.

ARTICLE 7: HARMONISATION IN THE CONTEXT OF THE 1998 AGREEMENT

1. The Parties shall cooperate to improve the functioning of the 1998 Agreement with a view to enabling GTRs to be completed in a timely manner as well as efficiently and effectively transposed by the Contracting Parties of the 1998 Agreement into their laws or regulations, in accordance with UN Resolution [trilateral paper – reference to be included after adoption].

2. The Parties shall, in particular, consult each other when a Party intends to present a proposal to develop a new GTR to the World Forum for Harmonization of Vehicle Regulations under the 1998 Agreement. At these consultations, the Parties shall share any available research or impact assessment.

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3. The Parties shall, wherever practical, cooperate on the establishment of agreed terms of reference, timelines, and deliverables, taking into account each Party's statutory restrictions on policy of their domestic regulatory systems. In particular, the Parties shall minimize the use of options and/or modules in GTRs, with the aim of providing for as few as possible compliance options.
4. Each Party shall ensure that sufficient resources are available to complete the transposition of a GTR into the domestic rules and that transposition is completed expeditiously within a reasonable timeframe.
5. Before a new GTR or an amendment to an existing GTR is submitted for voting, each Party shall inform the other Party in writing about its intended vote with a view to better aligning the Parties' positions. When a Party anticipates that for reasons beyond its control, it will not be able to vote under the 1998 Agreement as previously indicated to the other Party, such Party shall, in advance of the vote, inform formally and in writing the other Party of this change and provide the reasons thereof.
6. A positive vote of each Party for a GTR under the 1998 Agreement shall commit that Party to adopt such a GTR within [24 months] into its domestic laws or regulations. After this period, the GTR is considered to be equivalent to any relevant existing domestic technical regulation in the area of the GTR. Article 5 shall apply accordingly.
7. Any existing GTR for which there was no concern expressed by a Party through a negative vote or abstention at the time of this GTR's adoption under the 1998 Agreement, shall be listed in Appendix 2, as agreed by the Parties. The Party that has not yet completed the transposition of a GTR listed in Appendix 2 shall do so at the latest by entry into force of this Agreement. After this period, the GTR is considered to be equivalent to any relevant domestic technical regulation of that Party in the area of the GTR. Article 5 shall apply accordingly.
8. No Party shall introduce any new domestic technical requirements or conformity assessment procedures diverging from technical requirements or conformity assessment procedures of any GTR, including test procedures, in areas covered by such GTR, or where the completion of such GTR is imminent, unless there are substantiated reasons, based on scientific or technical information, why a specific technical requirement of a GTR is ineffective or inappropriate for ensuring safety, environmental protection, energy efficiency, and anti-theft performance.

ARTICLE 8: REGULATORY COOPERATION BETWEEN THE PARTIES

1. In order to further facilitate trade in wheeled vehicles, equipment and parts and to address market access problems before they arise, the Parties agree to co-operate and to consult promptly on any matters concerning the application of this Annex.
2. Upon request, each Party shall, in a timely manner and within a time period not exceeding 60 days, respond in writing to comments and questions of the other Party regarding any aspects covered by this Annex, and, if requested, enter into consultations with a view to seeking a mutually satisfactory solution.

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ARTICLE 9: BILATERAL HARMONISATION PAVING THE WAY TO A GLOBAL TECHNICAL REGULATION

1. For specific existing technical regulations of either Party, bilateral harmonization shall be carried out as provided for in Appendix 3.
2. From the moment the Parties agree on a detailed outline of harmonisation, Article 7 on Harmonisation in the context of the 1998 Agreement shall apply.

ARTICLE 10: COOPERATION ON NEW REGULATIONS

1. When a Party has identified the need to regulate in a particular area, it shall inform the other Party about its intention. In the absence of a relevant GTR, the Parties shall endeavour to cooperate to develop a joint GTR proposal. When after discussing the matter, the other Party is not interested in developing such a joint GTR proposal, the Party which identified the need to regulate may develop its own technical regulation or GTR proposal.
2. When a Party has identified the need to regulate in a particular area where a GTR has already been adopted under the 1998 Agreement, or its adoption is imminent, that Party shall transpose that GTR and shall refrain from developing its own regulation.
3. Where parts of the GTR are not yet completed, both Parties should cooperate and develop a joint GTR proposal for the completion of the GTR.
4. The Parties shall cooperate to update and improve the good regulatory principles and practices in the operation of the 1998 Agreement so as to bring them to a level comparable to that required by the regulatory systems of both Parties for a smooth transposition of adopted GTRs. Until then the Parties shall optimise the use of their own domestic procedural rules in such a way that it supports the efficient operation of the 1998 Agreement and the development and transposition of GTRs.

ARTICLE 11: COOPERATION ON RESEARCH

1. The Parties agree to share regularly information on regulatory plans or future research projects. For transparency and planning, the Parties agree to establish a rolling research agenda identifying specific initiatives in the joint regulatory cooperation work plan referred to in Article 12.
2. To the extent that internal domestic administrative and budgetary rules and procedures allow it, each Party shall endeavour to provide for the possibility for launching joint or twinned research projects with the optional participation of beneficiaries of both Parties.

ARTICLE 12: REGULATORY COOPERATION

[NB: this Article may need to be adjusted as discussions on the Institutional, General and Final Provisions Chapter and on the Regulatory Cooperation Chapter proceed. This Article is to be read in conjunction with the functions and roles of the Joint Committee, the Transatlantic Regulators' Forum and the Working Group on sectors as defined in the Chapter on Institutional, General and Final Provisions]

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1. The regulatory cooperation between the responsible authorities of the Parties shall be guided by a joint regulatory cooperation work plan, based on the programme of work established under the 1998 Agreement, which sets out short and medium term priorities for regulatory cooperation under this Annex.
2. The joint regulatory cooperation work plan shall be endorsed by the responsible authorities of the Parties at political level.
3. The responsible authorities of the Parties shall transmit the joint regulatory cooperation work plan to the Transatlantic Regulators' Forum [established under the Institutional, General and Final Provisions Chapter] and publish it on their respective websites.
4. The responsible authorities of the Parties shall regularly review the joint regulatory cooperation work plan. In this review, the responsible authorities of the Parties shall take into account, *inter alia*, progress achieved [during the preceding years] and consider new areas that would benefit from regulatory cooperation. For the review of the joint regulatory cooperation work plan, the responsible authorities of each Party shall consult stakeholders including small and medium size enterprises, employers and workers representatives and public interest groups.

APPENDICES

- Appendix 1:* Description of sets of regulations for which there is equivalence in a reciprocal manner. Where applicable, there will be a description of the specific conditions detailing to which aspects of products such equivalence would apply.
- Appendix 2:* List of existing GTRs and their latest date for transposition, as agreed, by each Party (or the date when transposed).
- Appendix 3:* List of areas for expedited and other agreed harmonisation work.