U.S. AUTO PARTS INDUSTRY:

Import and Export Compliance Considerations

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Introduction

Next time you turn on your car's windshield wipers, you might want to take a minute to consider the global journey those wipers very likely took to arrive on your windshield. Today's automobile parts supply chain, both for new car manufacture and replacement parts, is more global, with parts moving around the world faster and with greater precision than ever before.

At the same time, it's important to note the fundamental changes taking place within the auto parts sector. On the one hand, the Wall Street Journal reports that U.S. auto production is "nearing all-time highs," with strong domestic and international demand fueling a tremendous comeback of the U.S. auto industry. But, the Journal notes, those U.S.–made cars are built from record-high levels of imported parts. The Ford Escape, for example, includes 55 percent of U.S. and Canadian parts in its 2015 model, down from 90 percent used in 2010 models. Similarly, the U.S.-built Honda Accord contains 70 percent domestic parts, down from 75 percent.

U.S. auto manufacturers imported a record $138 billion worth of auto parts last year, a figure the Journal equates to $12,135 of content in every American-made car. Mexico and China lead the list of international auto parts suppliers. Mexican imports accounted for 34 percent of total imports during 2014, an 86 percent increase since 2008. China accounted for 13 percent of total auto parts imports, a level that has more than doubled during that same time period.

"The U.S. imported a record $138 billion in car parts last year, equivalent to $12,135 of content in every American light vehicle built."

Source: The Wall Street Journal, March 23, 2015

But while America's auto manufacturers were looking beyond U.S. borders, the U.S. domestic parts industry has grown and thrived, as manufacturers have found strong demand for products in international products. According to the U.S. Census Bureau, total exports of automotive parts during 2014 exceeded $80 billion, an amount that nearly doubled 2009 levels. Top export destinations included Canada (38 percent), Mexico (36 percent), and China (3.0 percent).

Whether a part is entering the U.S. as an import or leaving as an export, its transit will include at least one unavoidable international border crossing and an ensuing trip through customs. Auto parts will need to comply with the same protocols that all products crossing a border must abide—duties, tariffs, paperwork, and inspections, to name a few. But beyond those “regular” compliance procedures, auto parts are subject to a lengthy list of additional regulations and standards.

In the U.S., for example, a parts manufacturer may be subject to regulatory control by the National Highway Transportation Safety Board (NHTSB), the Environmental Protection Agency (EPA), the Federal Trade Commission (FTC), and any number of state agencies, including the California Air Resources Board (CARB).

For a well-prepared parts manufacturer, the customs aspect of its logistics strategy can be a painless experience. In some instances, a savvy manufacturer can actually reduce its tariff obligations or get a refund on duties paid!

But for less well-prepared businesses, moving goods through customs can be a nightmare—an expensive nightmare since any mistakes generally trigger fines and delays. The good news though, is that a parts manufacturer or supplier does not have to take on the compliance issue on its own. An experienced logistics provider or customs broker can manage the process, offer guidance, and ensure proper compliance. However, since the business will retain ultimate responsibility for the goods crossing the border, it is helpful to have an understanding of the compliance process.

The following discussion will provide an overview of the U.S. Customs Border Protection (CBP) agency’s requirements for auto parts entering and leaving the U.S. The discussion will also feature a review of key international considerations along with guidance for choosing a logistics provider to help ensure proper management of this critical issue.

Importing Auto Parts into the United States

Any product brought into the United States for use in the manufacture of a vehicle must meet the U.S. government's rigid standards for performance and quality. In addition, a foreign manufacturer or seller of auto parts must provide U.S. Customs Border Protection with the name of a U.S. resident who will act as its agent, and it must also provide detailed information about its company and its intended shipment.

To be clear, the U.S. strictly monitors auto parts imports, and, more than ever before, holds suppliers to high standards for quality and safety. This is because of a series of high-profile product recalls during 2014—General Motors Co.'s defective ignition switches and the Japanese Takata Corp.'s ill-designed air bags—that together resulted in the recall of more than 60 million U.S. vehicles. The National Highway Traffic Safety Administration has vowed to increase scrutiny of incoming products, with agency head Mark Rosekind putting companies on notice that the agency will move with the "full force of its authority" to pursue violators.

Essentially, this means a more rigorous review process for auto imports entering the United States. Following is a brief overview of what a typical auto parts customs compliance process will entail.

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Auto Parts Compliance—Federal Level

The U.S. government regulates automobiles and auto parts through two main agencies, the National Highway Traffic Safety Administration (NHTSA) and the Environmental Protection Agency (EPA). The NHTSA oversees safety issues while the EPA regulates vehicle emissions and other environmental impacts.

Federal Motor Vehicle Safety Standards

The NHTSA operates within the Department of Transportation and is charged with enforcing various laws related to motor vehicle safety. Through that authority, the NHTSA maintains a list of Federal Motor Vehicle Safety Standards (FMVSS) that establish minimum safety and performance requirements for new cars and 13 types of auto parts:

- Tires
- Rims
- Brake Hoses
- Brake Fluid
- Glazing
- Seat Belt Assemblies
- Lighting Equipment
- Child Restraints
- Motorcycle Helmets
- Compressed Natural Gas Containers
- Rear Impact Guards for Trailers
- Platform Lift Systems for the Mobility Impaired
- Triangular Reflective Warning Devices

The FMVSS list is divided into four main categories:

- Crash Avoidance (i.e., Rearview mirrors, Brake systems, and Windshield wipers)
- Crashworthiness (i.e., Head restraints, Seat belts, Rear and Side impact protection)
- Post-Crash Standards (i.e., Fuel system integrity, Flammability of interior materials)
- Other Regulations (i.e., Fuel economy standards, Automobile parts content labeling, Defect reporting, and Uniform Tire Quality Grading Standards)

While auto parts entering the U.S. are expected to conform to all FMVSS standards, of special note to importers are the following:

- **Part 583—Automobile Parts Content Labeling:** Establishes requirements for disclosure of information relating to the countries of origin for parts used in new vehicle manufacture. Requires manufacturers to list information about the value of the U.S., Canadian, and foreign parts content of each vehicle, the countries of origin of the engine and transmission, and the site of the vehicle's final assembly.
- **Part 591—Importation of Vehicles and Equipment Subject to Federal Safety, Bumper, and Theft Prevention Standards:** Establishes procedures governing the importation of motor vehicles and motor vehicle equipment. Ensures

that products permanently imported into the U.S. conform to all applicable federal motor vehicle safety standards.

According to the Specialty Equipment Market Association (SEMA), FMVSS "only establish performance requirements, not design mandates." In other words, FMVSS won't tell a manufacturer what to build, only how its product has to perform. "For example," SEMA notes, "headlights must comply with certain photometric specifications, such as requirements on the amount, color, and intensity of light to be produced, but their designs are not restricted to a specific shape like round or square."

Any business that manufactures or imports an auto part covered by a safety standard is required to register with the NHTSA. The company will then be added to a database and assigned a manufacturer identification number.

Environmental Protection Agency

Any auto component entering the United States must comply with EPA emissions standards. In addition, any part affecting vehicle emissions—air filters, transmissions, fuel filters, intake/exhaust components—must comply with federal anti-tampering laws. In some instances, the EPA permits a manufacturer to "self-certify" that certain parts are compliant, and the Agency does not require submission of testing data. However, the EPA reserves the unconditional right to challenge a company's basis for self-certification and can request proof of emissions levels.

Role of Customs and Border Protection

The Customs and Border Protection agency acts as the gatekeeper for all products entering the United States. The agency acts on behalf of every other government agency in ensuring that proper duties/fees are paid, all necessary documentation has been completed, all security mandates met, all licensing/labeling requirements fulfilled, and every "i" dotted and every "t" crossed.

The U.S. Congress clarified the CBP's role with passage of the Customs Modernization Act (Mod ACT), which established the legal responsibility of importers to exercise "reasonable care" when bringing goods into the United States. As a result, every importer must provide the CBP with accurate information regarding the admissibility, tariff classification, value, and origination of goods. In addition, importers are responsible for maintaining all records relating to an importation for five years.

With respect to the importation of auto parts, the CBP acts on behalf of the EPA and NHTSA. Among the prerequisites mandated by the CBP:

- **EPA Form 3520—**"Importation of Motor Vehicles and Motor Vehicle Engines Subject to Federal Air Pollution Regulations"

> "FMVSS won't tell a manufacturer what to build, only how its product has to perform."

- **Department of Transportation Form HS-7—** "Declaration for Importation of Motor Vehicles and Motor Vehicle Equipment Subject to Federal Motor Vehicle Safety, Bumper, and Theft Prevention Standards"
- **CBP Form 7501—**"Customs Entry"
- Commercial invoice
- Manufacturer's letter/certificate stating that the parts conform to EPA and DOT standards
- Parts-specific mandates:
    - Engines must bear a sticker, written in English, with appropriate emissions control information.
    - Tires must have a "tire identification number" permanently molded into each tire.
    - Child restraint system manufacturers must provide a registration form to purchasers that, upon completion, is maintained by the manufacturer for at least six years.
    - Certification that applicable parts meet FVSS. This is generally accomplished via a label certifying such compliance that is permanently affixed by the manufacturer. In most instances, proof of FMVSS compliance is via a "DOT" symbol either stamped on the equipment in a certain location or placed on the outside packaging.

The CBP forewarns that importing a vehicle or vehicle parts into the United States can be a frustrating process. The agency advises any potential importer to be fully cognizant of all NHTSA and EPA requirements, and to be aware that "these agencies have very detailed requirements that can make importing a vehicle and/or its parts difficult, if not impossible, for some vehicles that were not originally manufactured for the U.S. market."

For one thing, the U.S. government places a strict burden of obligation on a parts manufacturer to notify importers of any safety-related defects and to provide a remedy. In fact, this high standard is playing out within the United States automobile industry as Japan's Tanaka Corporation is being held strictly accountable, with record fines imposed, for faulty airbags installed in numerous models of U.S.-built cars.

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Source: U.S. Customs and Border Protection website, regarding EPA and FHTSA standards for auto parts imports.

Auto Compliance—State Level

Auto parts manufacturers must also be in compliance with safety and quality standards imposed at the state level, which can be more stringent than federal standards. In some instances, states have taken the initiative to enact standards in cases where the federal government has not established standards.

The state of California, for example, enacted its own clear air law before the federal Clean Air Act was enacted in 1970. The California Air Resources Board (CARB) imposes strict engine emissions standards and, whereas the federal EPA allows an importer to self-certify that its products meet applicable law, CARB requires submission of testing data.

According to the Commerce Department's National Institute of Standards and Technology, while a manufacturer needs to be aware of, and in compliance with, the laws and regulations of every state, following is an overview of state agencies that generally impose the most auto parts-related regulations:

AGENCY	SCOPE
State authorities responsible for Weights and Measures	Labeling
Toxics in Packaging Clearinghouse (TPCH)	Packaging
California Office of Environmental Health Hazard Assessment (OEHHA)	Toxic Chemicals
California Air Resources Board	Emissions
Illinois Department of Public Health	Lead Labeling

Non-Auto-Parts-Specific Customs Requirements

Beyond these auto-parts-specific customs requirements, shipments bound for the U.S. must comply with additional mandates. Many of these requirements are standard procedures for all shipments clearing the U.S. border, regardless of contents.

Duties/Tariffs

Every product entering the United States must bear a 10-digit identifying code, as found in the Harmonized Tariff Schedule of the United States (HTS), which is maintained by the U.S. International Trade Commission. Codes are used to assess tariff obligations and also to track the flow of goods entering the U.S. The HTS includes more than 17,000 different product classifications, and code assignments can vary based on slight product variations. Auto parts classifications are found in Chapter 87 of the HTS, "Vehicles Other Than Railway or Tramway Rolling-Stock, and Parts and Accessories Thereof."

Special care needs to be taken to ensure that a tariff classification is assigned properly. Each classification carries its own tariff assessment, and a product that is labeled incorrectly may cost a manufacturer more in tariff than is legally owed. Some things to consider:

- **Tariff classifications can be open to interpretation.** Perhaps not surprisingly, importers looking to minimize tariff obligations sometimes have a difference of opinion with CBP agents with regard to a product's tariff code assignment. When that happens, a business can challenge the CBP and seek a legally binding ruling. To facilitate the process, the CBP maintains a database of all prior tariff classification challenges. That database, the Customs Rulings Online Search System (CROSS), provides an updated list of all prior customs rulings that can serve as precedents when establishing rationale for use of a lower-tariff category.
- **Tariff classifications can change with little notification.** The U.S. government regularly updates the HTS, and the onus is on an importer to be aware of any changes that may affect product classifications. The International Trade Commission issues an updated HTS each year, but supplemental revisions are released throughout the year. It is possible to stay abreast of changes to specific HTS codes through a paid subscription to services offered by any number of third parties. However, this would require dedicating manpower to review the subscription feed and understanding the implications of any HTS rule changes for a particular shipment.
- **The wrong tariff classification can be costly.** Not only does a misclassified shipment run the risk of missing out on trade benefits to which it is legally entitled, or of overpaying duties, but it also faces potential fines and legal repercussions. The CBP collects more than $61 million annually in fines and penalties, and in fact is under pressure from some members of Congress to increase vigilance for potential violations. The bulk of fines result from

improper listing of a product's tariff classification or incorrect valuation for country-of-origin designation.

Any importer determined to have misclassified goods will (a) be required to pay the duties that were originally owed and (b) face penalties that could amount to several times the value of the merchandise in question.

Free Trade Agreements

Tariff classifications are also used to determine eligibility for Free Trade Agreement (FTA) benefits.

If it is determined that a shipment is eligible for benefits, an application for benefits must be completed and submitted along with all other required customs paperwork. Important to note: The onus is on the shipper to apply for FTA benefits. A shipper must not assume that a customs agent will automatically apply for benefits on its behalf or that benefits will be accrued. Many businesses fail to receive benefits to which they are legally entitled simply because they do not understand the application process.

Broadly speaking, an FTA is an agreement between two or more countries to promote trade opportunities. As the U.S. Trade Representative's office notes, the United States' key objectives in entering into an FTA include:

- Reduction of barriers to U.S. exports
- Protection of U.S. interests competing abroad
- Enhancement of the rule of law in FTA partner countries
- Alignment of regulations to create a "level playing field" (Example: The Transatlantic Trade and Investment Partnership (TTIP), currently under discussion between the United States and the European Union, would not only, among other things, eliminate tariffs on vehicles and auto parts but also align U.S. and European automotive and environmental standards.)

The United States currently has 14 FTAs in place with 20 countries: Australia, Bahrain, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Jordan, Korea, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, and Singapore.

North American Free Trade Agreement

The North American Free Trade Agreement (NAFTA) eliminates barriers and most tariffs on originating goods traveling between the United States, Canada, and Mexico. But determining whether or not a product fits within NAFTA's terms for "origination" can be tricky.

Under NAFTA, origination is not restricted only to goods produced within the U.S., Canada, or Mexico. Instead, the agreement makes allowances for products to include percentages of non-NAFTA materials and still qualify for preferential benefits. Auto parts that do not qualify for NAFTA benefits are assessed duty at a rate of 6.1 percent.

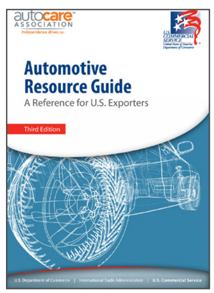
U.S. Auto Parts in the International Market

Exports of American-made auto exports exceeded $80 billion during 2014, a figure that has nearly doubled since 2009. Top destinations included Canada (38 percent), Mexico (36 percent), China (3.2 percent), and Germany (2.3 percent). Also worth noting are countries with which U.S. exports have seen a marked growth in recent years:

COUNTRY	Percent Increase from 2013 to 2014
Hong Kong	107
Egypt	88
Netherlands	78
Italy	52
Turkey	45
United Kingdom	45
United Arab Emirates	25

Important to note, 80 percent of U.S. products were sold to countries that are Free Trade Agreement partners, with 73 percent of sales made to NAFTA partners Canada and Mexico. In general, sales to FTA partners are easier to negotiate and enjoy favorable terms, including reduced or eliminated tariffs, greater market access, and support from the U.S. government in identifying potential new customers.

Regardless of which country a U.S. business sells to, careful consideration will need to be given to all necessary compliance mandates. Just as the U.S. sets standards for the importation of auto parts, so too does every other nation. The U.S. Commercial Service, an agency within the Department of Commerce, publishes an "Automotive Resource Guide: A Reference for U.S. Exporters," which provides both a market overview and compliance overview for potential export markets (with the exception of China).



Following is an overview of auto-parts-specific compliance requirements imposed by top U.S. trading partners. However, these requirements are in addition to other requirements—not specific to the auto industry—each country requires. These additional requirements may include security certifications, sales taxes, customs filings, paperwork requirements, and other government department (OGD) regulations.

Canada

- All parts must comply with Canadian safety standards and regulations.
- There are no barriers to bilateral trade in the automotive sector.
- Most automotive parts originating in the United States that meet NAFTA Rules of Origin are exempt from duty.
- U.S. and Canadian manufacturing and safety standards are practically identical.
- There are however some differences in certain standards and regulations that have an economic impact. Consequently, the two nations have been working to harmonize manufacturing and safety standards.

Additional information is available via the Canada Border Services Agency (CBSA).

Germany

- U.S. exporters must comply with European Union and national legislation with regard to importation of auto parts. The Federal Motor Transport Agency (KBA) is Germany's primary authority for vehicle parts standards and approvals.
- The EU implements increasingly strict regulations and policies, especially with regard to emissions control.
- The EU also imposes a tariff of as much as 4.5 percent on auto imports.
- U.S. exporters face difficulties entering the German market due to warranty concerns and strong global competition.

Additional information is available through the U.S. Commercial Office's regional office in Frankfurt.

Mexico

- As a NAFTA partner, Mexico has eliminated tariffs on all U.S. auto exports that meet the trade agreement's provisions for "origination."
- Mexico imposes no major barriers to the importation of spare parts and equipment so long as all materials are in compliance with NAFTA Rules of Origin.
- There is strong demand within Mexico for used and remanufactured parts. While the country imposes no serious impediments to used parts imports, there is a requirement that products have in place a label indicating the product has been remanufactured or rebuilt.

U.S. Requirements for Auto Parts Exports

It's important to remember that a product being imported into an international country is simultaneously being exported from the United States. As such, care must be taken to be in full compliance with all U.S. export controls.

Schedule B Classification: Similar to the Harmonized Tariff Schedule classification that must be assigned to every import entering the United States, exports must also be assigned an identifying code. For exports, the classification system is known as Schedule B and is administered by the U.S. Census Bureau. The purpose of the Schedule B code is to determine tariff responsibilities and to provide the U.S. government with statistical data about products leaving the country.

Export Control Classification Number (ECCN): The Bureau of Industry Standards (BIS), through the Export Administration Regulatory (EAR) structure, maintains a Commerce Control List of items that may require special licensing requirements. An exporter must review the Commerce Control List and determine if a shipment's ECCN requires an exporter's license.

EAR-99: Not every item under the scope of EAR authority is listed on the CCL. These products are assigned an EAR99 classification code and generally include low-level technology and consumer goods. According to the BIS, "a majority of commercial products are designated EAR99 and generally will not require a license to be exported or reexported."

An exception to this may occur if an EAR99 product is scheduled for export to a country that is considered "embargoed" or "sanctioned" by the U.S. government. In those instances, an EAR99 product may require a license.

Conclusion

OEM and aftermarket auto parts manufacturers today face the "new expectation" that globally sourced products will be delivered, on time, to meet strict vehicle production schedules or to satisfy customer demand for replacement parts. In facing this new reality, manufacturers must also consider the added complication of border crossings and compliance requirements. In the best of circumstances, a border clearance process can be an annoyance, but if not planned for properly, a poor customs experience can be devastating.

Fortunately, there are ways to mitigate the risk of shipments being delayed because of a customs issue, and to avoid any "unpleasant surprises," should a shipment arrive at the border without being in full compliance.

An obvious place to start is by choosing a logistics provider that has customs expertise. The U.S. government, for example, maintains a "trusted trade" program called the Customs-Trade Partnership Against Terrorism (C-TPAT). This program is the cornerstone of the CBP's border security efforts, and it relies on voluntary participation from U.S. businesses to certify that their supply chains are secure and that their vendors' and suppliers' supply chains are also secure. In exchange, and after undergoing a thorough certification process, C-TPAT members are given priority access at the border. Choosing a logistics provider with trusted trader access just makes sense.

Another logical choice is to enlist a provider with Canadian expertise. With the United States and Canada serving as the top export market for each other's auto parts industries, it makes sense to choose a logistics partner with a deep understanding of the U.S./Canadian customs clearance process. Many U.S. businesses make the mistake of assuming that, given the closeness of the two countries, clearing goods into Canada will be a mere formality. In fact, the clearance process can be highly confusing, with many shipments delayed or subject to fines as the result of incomplete or inaccurate compliance records.

Many logistics providers will claim to offer customs expertise, but few actually have the results to support those assertions. In today's fast-paced auto parts industry, "stuck at the border" is not a viable excuse. Instead, with the right logistics provider on board, a parts manufacturer can be assured that all shipments will seamlessly move through customs and can focus instead on taking advantage of the tremendous opportunities in today's markets.

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Purolator is the best-kept secret among leading U.S. companies who need reliable, efficient, and cost-effective shipping to Canada. We deliver unsurpassed Canadian expertise because of our Canadian roots, U.S. reach, and exclusive focus on cross-border shipping.

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But size alone doesn't make Purolator different. We also understand that the needs of no two customers are the same. We can design the right mix of proprietary services that will make your shipments to Canada hassle free at every point in the supply chain.

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