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## here come more tariffs - this time on automobiles and parts!

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On March 26, 2025, President Trump issued an Executive Order (EO) imposing 25% tariffs on automobiles and auto parts. The reference is to those autos and parts which appear on Annex 1. As is typically the case, there is no Annex 1 included with the EO. It will no doubt be part of the Federal Register notice which follows. At this time, the text of the EO has not been submitted to or been published in the Federal Register.

The 25% on the vehicles is effective on April 3, 2025. The tariff on auto parts is delayed to no later than May 3, 2025, but may come earlier. The exact effective date all depends on when the Federal Register notice is published. The EO makes clear this 25% is in addition to all the other tariffs. However, autos and parts eligible under the USMCA are sort of exempt. In other words, the U.S. content may be deducted from the full value of the imported product and the 25% is due on the remaining value.

There is a provision in the EO making clear that CBP is to determine the accuracy of the U.S. content stated. If it turns out to be wrong, the remedy provided is limited to those where there is an overstatement. If the U.S. content value is wrong, then the 25% tariff applies to the full value of each auto retroactively to April 3, 2025 and prospectively from the date the value was overstated until that declaration is corrected. Importers can expect interest to also be assessed. The EO makes clear other penalties may also be applied and, in the current environment, importers should expect additional enforcement.

When it comes to the parts, it is left to the Secretary of Commerce to work with CBP to develop a process to apply the tariffs to the remaining value of the parts, meaning minus the U.S. content. Auto knock-down kits or parts compilations are specifically excluded from the tariff.

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cybersecurity and privacy  
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Secretary Lutnick is given 90 days to establish a process by which to add other auto parts on his own initiative, as well as at the request of domestic interests. However, he is also told to expedite the decision-making process. A final determination is to be made within 60 days of receipt of a request. The tariffs take effect the day after they are published in the Federal Register and that Federal Register notice shall be published quickly, but no more than 14 days after the determination is made.

As before, the use of foreign trade zones is limited to "privileged foreign status" and drawback is again barred.

Sadly, once more, the trade is left with a lot of questions. For example,

1. There is no definition provided for a "parts compilation;"
2. The method to determine the value of the U.S. content is not properly defined;
3. Where is the list of vehicles impacted? and
4. Where is the list of auto parts covered by this tariff?

When it comes to the value of the U.S. content, that most recently arose in the context of the steel and aluminum tariffs. The answer was figure it out the same way you figure out transaction value. Sadly, that is not a complete answer. For example, and bearing in mind that a lot of U.S. auto makers produce vehicles and parts on both sides of the U.S.-Mexico and U.S.-Canada border, is the value to be declared the transfer price going north or south? How does one value any U.S. components added to the vehicles in Mexico and purchased in Mexico. A similar dilemma exists with vehicles/parts acquired in Canada which are of U.S. origin. One presumes the answer is the cost to acquire plus the freight and insurance (as an assist is valued), but is that what is intended?

This Administration obviously feels that speed is important. Whether one agrees or not, the reality is that incomplete information is a hotbed for non-compliance. Similarly, the technology companies that support importers and exporters also need to time to update and test before rolling out system updates. The delays inherent in reprogramming are also a significant source for non-compliance. Since most companies are focused on compliance (import and export) and certainty, industry is hopeful that CBP will take to heart the concept of informed compliance and not just enforce the changes when it is impossible to be compliant. By way of example, the NCBFAA has submitted about 50 questions requesting clarification regarding the steel and aluminum tariffs alone, and this does not include the countless emails which were sent to the CBP from the trade asking additional questions.

Liberation Day is said to be April 2, 2025. The two most reliable rumors circulating are that something will be said about reciprocal tariffs, and we will find out soon whether or not the 25% tariff suspended for USMCA eligible goods remains intact beyond April 2. It would seem from the language of the auto and parts tariff EO, the answer to the second question is yes, but we will not know for sure until the next announcement. Stay tuned for more changes!