



AMERICAN AUTOMOTIVE POLICY COUNCIL



ACEA

European
Automobile
Manufacturers
Association

**AAPC and ACEA Joint Submission in Support of
Automotive Regulatory Harmonization in a
European Union-United States Trade and Investment Agreement**

7 December 2012

Introduction

ACEA and the AAPC welcome the interim HLWG report, which states “...a comprehensive transatlantic trade and investment agreement, if achievable, is the option that has the greatest potential for supporting jobs and promoting growth and competitiveness across the Atlantic”, and fully concur with that assessment and the merits of pursuing a bilateral trade agreement between the United States (US) and the European Union (EU).

ACEA and AAPC call for an ambitious agreement addressing tariff and non-tariff measures in the automotive sector. The negotiations should use all possible tools available to achieve key objectives in parallel, which include:

- Tariff elimination, and;
- Regulatory convergence as a part of the full elimination of non-tariff barriers.

Although there is already a robust exchange of automotive trade and investment between the US and the EU, some policies and practices, including tariff and non-tariff measures, unnecessarily burden and impede that activity.

Addressing these measures in a bilateral trade agreement would help ensure that the auto sector gains the efficiencies that are expected to come from such a deal and would significantly contribute to economic growth on both sides of the Atlantic.

Greater auto regulatory harmonization between the EU and US would open the door for increased trade, lower costs, create jobs, and improve the international competitiveness of the industry on both sides of the Atlantic. This would strengthen the automotive industry and the economic contribution made in both regions.

Representing a market of almost 30 million annual vehicle sales, the transatlantic partnership would also set up the EU and the US as the worldwide standard setters and encourage third parties to adopt international regulations and avoid further auto regulatory fragmentation.

Today, significant differences exist in the prescribed test procedures and requirements between the US and EU regulations, although both effectively address the same motor vehicle safety and environmental challenges.

For over two decades, US and EU regulators have long promised to achieve global regulatory uniformity and to encourage a collaborative approach in testing and certification procedures by promoting greater acceptance of comparable regulations and health and safety-related measures.

Yet, there is little to show for these efforts. In the past fifteen years, only seven safety regulations¹ have been globally harmonized through participation in the United Nations Working Party 29 (UN WP.29).

The negotiation of a transatlantic trade agreement presents an opportunity to implement a regime that effectively breaks down regulatory barriers in the auto sector, while respecting US and EU sovereignty and without sacrificing vehicle safety or environmental performance.

Guiding Principles for Harmonization of EU-US Automotive Technical Regulations

In order for auto sector regulatory harmonization efforts to succeed, there must be:

- Strong and sustained political support at the highest levels of government, and the relevant regulatory authorities;
- Ambitious negotiating objectives fully supported by the relevant regulatory authorities and a commitment to achieve them in an accelerated time frame during the FTA negotiations;
- No net increase in US or EU regulatory requirements;
- No new third regulations (in addition to existing EU or US regulations);
- No net increase in vehicle production and certification costs.

ACEA and AAPC recommend that regulatory harmonization efforts pursue two paths concurrently:

1. Acceptance of existing regulations based on data driven analyses. The term “acceptance” for purposes of this paper, is meant to broadly cover the concepts of unilateral and mutual acceptance/recognition of US and EU automotive regulations. It could also draw upon UN WP.29 ('58 and '98 agreements) concepts, including equivalence and technical harmonization. ACEA and AAPC will subsequently provide additional details on their preferred approach.
2. When it is determined that a new regulation is needed (e.g. electric vehicles), promotion and facilitation of strong EU-US bilateral and multilateral cooperation to avoid the development of divergent regulations.

¹ Pedestrian safety, head restraints, door locks, safety glazing, electronic stability control, motorcycle controls and displays, and motorcycle braking systems.

Acceptance of Existing Regulations

The AAPC and ACEA propose that acceptance of existing EU regulations in the US, and vice versa, should be self-executing. Rather than attempt to analyze and then unify divergent requirements/testing procedures – exercises that have virtually paralyzed harmonization efforts to date – the focus should be a data-driven evaluation of a given regulation.

Acceptance of an existing regulation should be presumed recognizing the significant advancements that the regulations have provided in environmental and safety technologies in both the US and the EU, unless, within a defined time frame, the analysis of the data conducted by the responsible regulatory agency demonstrates that the regulation is deficient from a safety or environmental perspective.

Rather than wait for the conclusion of FTA negotiations and entry-in-force of the trade pact to initiate this regulations acceptance review process, ACEA and AAPC recommend that that process begin in earnest immediately in close cooperation with the industry in order to take advantage of the current increased existing political will and interest in these issues. In conjunction with this submission, AAPC and ACEA are presenting a preliminary and non-exhaustive list of regulations where regulatory convergence could be appropriate and beneficial (see Annex I). In the near term, ACEA and AAPC will identify a list of commercially meaningful auto regulations, to be addressed as priorities, for which ACEA and AAPC believe acceptance is appropriate. ACEA and AAPC propose that US and EU negotiators secure acceptance of these priority regulations during the course of the FTA negotiations based on data driven analyses.

Development of Common Future New Regulations

When a new regulation is needed, a joint EU-US auto regulatory harmonization process, that takes into account differences in US and EU auto regulatory development and implementation timelines, needs to be developed that promotes and facilitates the development and adoption of common future new regulations. Ideally, this process would include a mechanism to foster the development of common voluntary standards in the pre-regulatory environment. In developing this joint approach, the lessons and experience of the recent US-EU collaboration in developing an electric vehicle plug standard, and other voluntary agreements, should be heavily drawn upon.

Specifically, the development of each future new harmonized approach, should:

- Aim at strengthening the automotive industry in both regions towards the 21st century;
- Reduce complexity costs or administrative burdens while keeping needed flexibility;
- Have strong and sustained political support at the highest levels of government;
- Engage industry to work together to develop each harmonized approach;
- Provide a timeline to complete the development of each harmonized approach.

The outcome of this joint EU-US auto regulatory harmonization process should also be an agreement to help streamline and improve the efficiency of the current global auto regulatory development process (i.e. avoid as much as possible the introduction of options or exemptions under the GTR process of the UN WP.29 '98 Agreement or '58 Agreement).

In addition to the need to address divergent US and EU auto regulations, governmental consumer information (public domain assessments) testing and rating requirements in the US and EU, which also have a significant impact on transatlantic trade, are often divergent. The goal of consistency in these protocols would also contribute to enhanced cooperation and transatlantic trade opportunity.

Conclusion

ACEA and AAPC are excited about the opportunities for tariff reduction and regulatory harmonization presented by the negotiation of a bilateral trade agreement between the EU and the US. The objective of the EU—US negotiation should be to address auto NTBs and import duties. The EU-US negotiations, and in particular on the issue of regulatory harmonization should consider the role of consumer information (public domain) assessments and be seen also in the context of the global trade environment and lead to the extension of benefits to NAFTA partners.

To achieve these goals, there must be overwhelming and sustainable political will at the highest levels. Anything less and there is a significant risk that history will repeat itself and this harmonization effort will fail. ACEA and AAPC, as well as the EU and the US as a whole, cannot afford that result.

Annex I: Preliminary, non-exhaustive list of existing auto-related safety and environmental regulations where harmonization could be beneficial for the industry:

- **SAFETY**

Regulation (EU / US) - Comment
Front impact (ECE R94 / FMVSS 201 & 208) – unbelted & PAB suppression/low-risk deployment testing in US
Side impact (ECE R 95 / FMVSS 214) – GTR on PSI progressing; MDB testing will remain different
Rear impact (ECE R34 / FMVSS 301 303 & 305) - covered with fuel tank req. in EU for ICE and Hybrid vehicles
Pedestrian Protection (79/2009 EEC / -) – GTR established
Tyre pressure monitoring (ECE R64 / FMVSS 138) – EU covers safety & environment
Door locks and latches (ECE R11 / FMVSS 206) – GTR contains one option
Controls and Tell Tales (ECE R121 / FMVSS 101) – both broadly reference ISO
Braking incl. BAS, ESC, etc. (ECE R 13H / FMVSS 126 &105 & 106 & 116 & 121 & 135) – GTR on ESC contains options for methods
Lighting (ECE R48 & 7 & 6 & 4 & 23 & 31 & 37 & 38 & 77 & 87 & 91 & 98 & 99 & 112 & 119 & 123 / FMVSS 108 & Part 564)
Roof Crush Resistance (- / FMVSS 216)
Eject mitigation (- / FMVSS 226) – will drive unique side curtain designs in US even with PSI GTR
Steering effort (ECE R79 / -)
Audible warning (ECE R28 / -)
Electric safety (ECE R100 & 12 & 94 & 95 / FMVSS 305) – GTR on EVs progressing
Anti-theft (ECE R116 & 18 & 97 / FMVSS 114 & Part 541 and 543)
Seat strength and head restraints (ECE R17 / FMVSS 202a) – GTR in place for HR
Seat belt anchorages (ECE R14 & 16 / FMVSS 210)
Seat belt and restraint systems (ECE R16 & 44 / FMVSS 208, 209 & 213)
Defrost / demist (672/2010 / FMVSS 103)
Child restraint anchorage systems (ECE R14, 16 & 44/ FMVSS 225) – pull test in the US has a higher pull force
Wash / wipe (1008/2010 / FMVSS 104)
Heating system (ECE R122/ -)
Safety glazing (ECE R43 / FMVSS 205) – GTR in place (marking is different)
Tyres (ECE R30 & & 54 & 64 & 117 / FMVSS 109 & 110 & 119 & 120 & 129 & 139) - GTR progressing
Flammability of materials (ECE R118 / FMVSS 302) – only commonality is the horizontal burn test
Windshield Zone Intrusion (- / FMVSS 219)
Windshield Mounting (- / FMVSS 212)
Seat Assembly (ECE R 17 / FMVSS 209 & 210)
Seating System (ECE R17 & 80 / FMVSS 207)
Impact from Steering Control (ECE-R12 / FMVSS 203 & 204)
Warning Devices (ECE-27 & 65 & 13H & 13 / FMVSS 125)
Accelerator Control System (ECE R89 / FMVSS 124) – different scope between the regions
Power Operated Windows, etc. (ECE R21 / FMVSS 118)
Hood Latch System (- / FMVSS 113)
Rear Visibility (ECE R46 / FMVSS 111) – no warning on the mirrors; ECE includes indirect vision; rear view cameras and displays in the US
Transmission Shift lever, etc. (GSI from GSR / FMVSS 102)
Internal Trunk Release (- / FMVSS 401)
Event Data Recorder (- / Part 563)

Interior Fittings (ECE R21 / FMVSS 101)
Exterior Projections (ECE R26 / -)
Speedometer, reverse Gear (ECE R39 / State requirements)
Forward Vision (ECE R125 / -)
Rear, Side and Front under run (ECE R58, 73 & 93 / Part 393)
Tachographs (1360/2002 EEC / -)
Masses & Dimensions (92/121 EEC / -)
Certification Label / VIN Manufacturers Plate (19/2011 / Part 565)
Emergency towing hook (1005/2010 / -)
Couplings (ECE R55 / -)
Driver Distraction Guidelines (ESOP / Alliance guidelines) – US guidelines based on ESOP but distinct tests included
Quiet Car (RE.3 reference / NPRM)

• **ENVIRONMENTAL**

Regulation
Sound levels (drive by noise)
EMC
Recycling
RFI
Emissions Light / Med / Heavy duty <ul style="list-style-type: none"> - Tailpipe Criteria pollutants - Supplemental (MAC / Aggressive driv.) - Low Temp - Evaporative Emissions - OBD - Low temperature testing - NOx aftertreatment anti-tamper - Durability - Diesel Smoke - Real Driving Emissions
A/C systems <ul style="list-style-type: none"> - MAC working fluid - MAC testing
GHG emissions <ul style="list-style-type: none"> - Definition of GHG - Test cycle - Standards
Power
Right to repair / Repair maintenance info