

Vehicle Fuel Efficiency Standards and International Trade

Regulating for Globalization

27/06/2018

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Please refer to this post as: Robert Ireland, 'Vehicle Fuel Efficiency Standards and International Trade', Regulating for Globalization, 27/06/2018, <http://regulatingforglobalization.com/2018/06/27/vehicle-fuel-efficiency-standards-and-international-trade/>

Transportation surpassed electricity production in the United States in 2016 to become the country's largest source of greenhouse gas (GHG) emissions at 28.5 percent of the total. Approximately 60 percent of U.S. transportation-related GHG emissions are caused by light-duty vehicles (LDVs), which chiefly consist of gasoline-powered passenger cars and light-duty trucks, including sport utility vehicles, pickup trucks, and minivans. Although this subject is largely about environmental policy, it has important linkages to international trade in passenger vehicles.

Electric vehicles, gasoline taxes, and vehicle fuel efficiency standards

Electric vehicles (EVs) becoming mainstream should be the ultimate objective to reduce LDV GHG emissions. In the United States, however, the EV market share is currently only about 1.0 percent, which is considerably lower than global leader Norway (approximately 29.0 percent).

Because the needed reductions in transportation GHG emissions will not occur until EVs rule the road, interim approaches include *higher gasoline taxes* and adopting *vehicle fuel efficiency (VFE) standards*. The United States has not aggressively pursued the former: its paltry 18.4 cents per gallon gasoline tax was last raised in 1993 under legislation signed by U.S. President Bill Clinton. The United States has, however, pursued the latter with incrementally higher miles per gallon (mpg) requirements.

A very short history of U.S. VFE policy, 1975-2018

U.S. President Gerald Ford signed the first U.S. VFE legislation (officially known as the Corporate Average Fuel Economy or CAFE standards) in 1975. The law took effect in 1978 with a requirement for passenger cars of 18 mpg; light trucks were added in 1979. The U.S. Government has steadily increased the mpg requirement over time.

In 2007, U.S. President George W. Bush signed legislation which upped the VFE target to 35 mpg by 2020. U.S. President Barack Obama also raised the VFE standard and his last increase required that the U.S. auto fleet average 54.5

mpg by 2025.

The U.S. automotive industry has long plotted a rollback of the rising VFE standards and their lobbying picked up noticeably in November 2016. In April 2018, the U.S. Environmental Protection Agency announced that it planned to revoke the 54.5 mpg standard and adopt a lower standard. California has pledged to “vigorously defend” the state’s waiver for its own stronger standards. If California’s VFE regulation survives the inevitable litigation, automakers would be required to comply with at least two different U.S. VFE standards.

VFE standards, international trade, and WTO law

In addition to the United States, nine other big GHG emitters (Brazil, Canada, China, the European Union, India, Japan, Mexico, Saudi Arabia, and South Korea) have adopted VFE standards of varying strength. The differing national standards have implications for international trade: automakers must generally comply with foreign VFE standards if they want access to those markets even if their country has weaker VFE standards.

For countries with weaker VFE standards, some could potentially allege that this is as an unfair trade practice and violates World Trade Organization (WTO) rules. For instance, the European Union in 1993 at the pre-WTO Global Agreement on Tariffs and Trade (GATT), challenged several U.S. vehicle environmental regulations, including the CAFE, in United States – Taxes on Automobiles. Although a muddled mess, the U.S. prevailed in most aspects of the case and its VFE law continued unimpeded.

More recent cases and analysis make it even more likely that restricting imports of vehicles with weaker VFE standards than domestic vehicles is legal under WTO rules. In particular, fuel-efficient vehicles are arguably not “like” fuel-inefficient vehicles. Even if this argument is not successful, a GATT Article XX exception allows regulations “necessary to protect human, animal or plant life or health” as long as they do not involve “arbitrary or unjustifiable discrimination” or are “disguised restrictions on international trade.” This is the scenario that led to the U.S. winning the WTO US – Shrimp case.

If a WTO case is not a plausible path for challenging VFE import restrictions, bilateral negotiations are. Under the recent South Korea-U.S. Free Trade Agreement (KORUS) renegotiation, the United States pressed and ultimately convinced South Korea to increase the number of vehicle imports with weaker VFE standards.

KORUS, the renegotiation, and VFE standards

KORUS was first signed by U.S. President George W. Bush and South Korean President Roh Moo-hyun in 2007. Due to some trade policy obstacles in the United States, implementation was delayed: U.S. President Barack Obama and South Korea President Lee Myung-bak had to re-sign an adjusted KORUS in December 2010, which then entered into force in March 2012.

In 2017, the United States sought to renegotiate KORUS and in 2018 the two countries reached a preliminary agreement: the focus are voluntary export restraints for South Korean steel exported to the United States and a higher allowable amount of U.S. vehicle exports (50,000, up from 25,000) that do not meet South Korea's vehicle safety and environmental standards.

Even before the U.S. VFE rollback announcement in 2018, South Korea had more substantial VFE standards than the United States. The KORUS provision for allowing imports of higher GHG emitting vehicles could be a setback for the environment as it could potentially dilute the impact of the South Korean VFE standards. The result, however, is likely to be minimal—South Koreans tend not to like big American cars and it is unlikely that 50,000 U.S. cars will be sold—in 2017, General Motors and Ford sold less than 10,000 cars in South Korea.