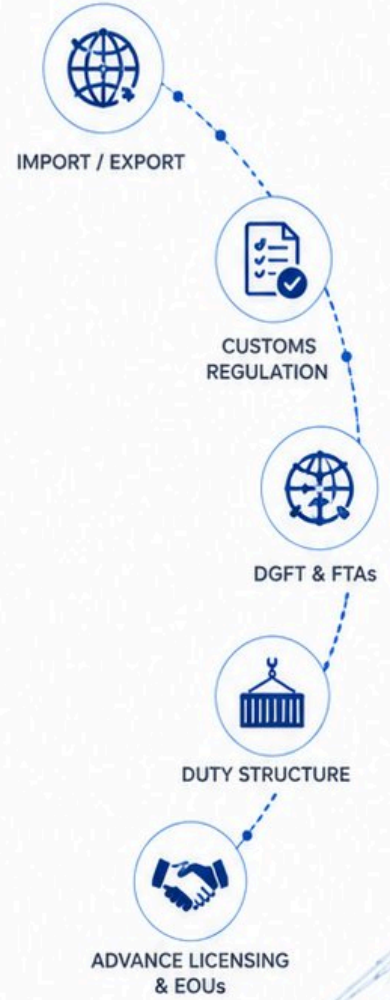


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Automobile *Import-Export* Law & Customs Regulation

CBU/CKD/SKD Duty Structure,
DGFT, FTAs, Advance Licensing,
EOUs & Grey Market



Automobile Import-Export Law & Customs Regulation

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Booklet III of VI

Bhatt & Joshi Associates

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CHAPTER ONE

Customs Law Framework for Automobile Imports

Customs Act 1962, Classification, Valuation, and the Import Licensing Architecture for Motor Vehicles

The import of motor vehicles into India is one of the most heavily regulated and heavily taxed commercial activities in the Indian economy. Understanding the complete customs and import policy framework is essential for every automobile importer, from CBU luxury brand importers to CKD assembly joint ventures.

1.1 The Customs Act, 1962 and the Import Framework

The Customs Act, 1962 is the primary legislation governing the import and export of goods in India, administered by the Central Board of Indirect Taxes and Customs (CBIC) under the Ministry of Finance. For motor vehicle imports, the Act establishes the framework for: classification of vehicles under the Customs Tariff Act, 1975 (which incorporates the Harmonised System of Nomenclature); valuation of imported vehicles for customs duty assessment; the procedural requirements for customs clearance (including filing of the Bill of Entry, documentary compliance, and physical examination of consignments); the enforcement of import restrictions and conditions (including the technical requirements under S.No. 41 of the ITC(HS) Import Policy); and the assessment of additional levies including the Social Welfare Surcharge, the IGST (payable as a component of customs duties for GST purposes), and the GST Compensation Cess applicable to motor vehicles. Together, the Customs Act and the Customs Tariff Act determine the total fiscal burden on an imported vehicle, which is the single largest component of the India-market

price premium of imported vehicles over equivalent domestically manufactured models.

The customs clearance procedure for imported motor vehicles begins with the importer (or its authorised customs broker) filing a Bill of Entry with the customs authority at the port of entry, supported by: the supplier's invoice; the packing list; the bill of lading (for sea shipments) or airway bill; the import licence or import permission (if required); the certificate of origin (for claiming preferential duty under applicable FTAs); the certificate of conformity or homologation certificate; the GST registration of the importer; and any other documents required by the relevant customs notification for the specific vehicle category. The Bill of Entry declares the customs classification (HS code), the customs value (transaction value, in the first instance), and the applicable duty rates. Customs officers examine the Bill of Entry, may inspect a sample of vehicles from the consignment, and assess the customs duty payable before clearing the consignment for release into India. Any disputes about classification or valuation are adjudicated through the customs adjudication process, with appeals available to the Commissioner (Appeals), CESTAT (the Customs, Excise and Service Tax Appellate Tribunal), and ultimately the Supreme Court.

1.2 HS Classification of Motor Vehicles: Chapter 87

Motor vehicles are classified under Chapter 87 of the Customs Tariff ("Vehicles other than railway or tramway rolling stock, and parts and accessories thereof"), which is divided into headings based on the vehicle's primary function, design, and powertrain. The most commercially significant headings for automobile importers are: Heading 8703 (motor cars and other motor vehicles principally designed for the transport of persons, including station wagons and racing cars); Heading 8704 (motor vehicles for the transport of goods); Heading 8705 (special purpose motor vehicles); Heading 8706 (chassis fitted with engines); and Heading 8708 (parts and accessories for motor vehicles of Headings 8701 to 8705). The classification of a specific vehicle into the correct heading and sub-heading determines the applicable basic customs duty (BCD) rate, which varies significantly between classifications and between different sub-headings within the same heading.

The sub-headings within Heading 8703 are particularly important for passenger car importers, as the BCD rate differs based on: the engine displacement (vehicles above 3000 cc or below 3000 cc for petrol/CNG/LPG; above 2500 cc or below 2500 cc for diesel); and the FOB (Free on Board) value at the port of export (vehicles with FOB value above USD 40,000 pay a higher BCD rate than those below this threshold, regardless of engine size). The BCD rate for CBU imports of passenger cars with FOB value above USD 40,000 is currently 100%, making the landed cost of an imported premium vehicle approximately 3 to 4 times its overseas market price before adding IGST, compensation cess, port handling, and other charges. This extreme fiscal barrier is the primary driver of the "local assembly imperative" for volume-selling premium brands in India.

1.3 Valuation of Imported Vehicles

The Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 — framed under Section 14 of the Customs Act — specify the methodology for determining the customs value (the dutiable value on which BCD is assessed) of imported goods, including motor vehicles. The primary valuation method is the "transaction value" method: the price actually paid or payable for the goods when sold for export to India, adjusted for freight and insurance costs (to arrive at the CIF value at the Indian port of entry). For transactions between related parties — such as imports by an Indian subsidiary from its overseas parent OEM — the transaction value must be verified to ensure that the relationship between the parties has not influenced the price. Customs authorities may reject the declared transaction value and apply alternative valuation methods (deductive value,

computed value, or fallback value) if they have reason to believe the declared price has been influenced by the related-party relationship and does not reflect the "customs value" as defined in the Rules.

Transfer pricing disputes in automobile imports — where the customs authority challenges the declared transaction value between related OEM entities as too low (to minimise customs duty) — are among the most commercially significant customs litigation matters in the Indian automobile industry. Premium imported brand OEMs who import vehicles from overseas parent companies at transfer prices that reflect the intra-group pricing policy must ensure that their transfer pricing methodology is defensible under both the Customs Valuation Rules and the Income Tax Act's transfer pricing provisions (which apply the arm's length standard to intra-group transactions). The interaction between the customs valuation challenge (asserting the import price is too low) and the income tax transfer pricing assessment (which may simultaneously argue the import price is too high, to maximise deductible expenses in India) creates a perverse double-jeopardy situation that requires coordinated customs and transfer pricing planning.

CBU, CKD and SKD: Duty Structures and Strategic Implications

Complete Built Unit, Completely Knocked Down, and Semi Knocked Down Import Strategies for OEM Entry and Scale

The choice between CBU, CKD, and SKD import strategies is the fundamental strategic decision for every automobile OEM entering or scaling in the Indian market. This chapter examines the complete legal, fiscal, and operational framework for each strategy.

2.1 CBU Import: Complete Built Unit

A Completely Built Unit (CBU) import involves the import of a motor vehicle in fully assembled, road-ready condition, requiring no manufacturing or assembly operations in India. CBU imports are subject to the highest customs duty rates in Chapter 87: for passenger cars (Heading 8703) with FOB value above USD 40,000, the basic customs duty is 100%; for passenger cars below USD 40,000 FOB value, the BCD is 70%. Adding the Social Welfare Surcharge (10% of BCD), IGST at 28% (on the assessable value including BCD and surcharges), and GST Compensation Cess (ranging from 1% to 22% depending on engine size and vehicle type), the total tax incidence on a CBU import can easily reach 150–200% of the overseas market price of the vehicle. The result is that every premium imported vehicle sold in India at its "official" CBU import price carries a massive tax component — approximately Rs. 50–80 lakh of taxation on a vehicle with an overseas price of Rs. 40–50 lakh — which is ultimately borne by the Indian consumer.

Despite the extreme duty burden, CBU imports remain commercially viable for ultra-premium and speciality vehicle brands (Ferrari, Lamborghini, Rolls-Royce, Bentley, Porsche at the highest end, and a range of premium European and Japanese brands in the Rs. 50–2 crore segment) because the target buyer segment is price-inelastic at the premium end, the volumes are too low for local assembly to be economically justified, and the brand equity of "imported from Germany/UK/Italy/Japan" is itself a valued attribute for which premium buyers are willing to pay the fiscal premium. For these brands, the CBU route provides complete product integrity (the Indian-market vehicle is identical to the global product, without the localisation compromises that assembly might introduce), fastest time-to-market for new models (no need to set up local supply chains), and maximum flexibility (the importer can adjust model mix and volumes in response to market demand without being constrained by a local assembly capacity commitment).

2.2 CKD Import: Completely Knocked Down

A Completely Knocked Down (CKD) import involves the import of all components of a vehicle in disassembled form, for assembly into a complete vehicle at an Indian manufacturing facility. The CKD route is used by volume OEMs who are committed to the Indian market at scale but who source their vehicle platforms internationally, assembling them in India to qualify for the lower CKD duty rates (currently 15–35% BCD on CKD components, compared to 70–100% on CBU imports) and to satisfy the "value addition in India" requirements that support the Indian industry development objective. The assembly operation in India — even if it involves relatively simple "bolt-together" operations with limited manufacturing content — reduces

the effective duty rate dramatically and enables the OEM to sell the Indian-assembled vehicle at a significantly lower price than a CBU import of the same model, improving competitiveness in the volume market segments where price sensitivity is high.

The legal definition of "CKD" for customs duty purposes is critical: the Customs Tariff specifies that a vehicle imported in CKD condition (i.e., not assembled) is classified as a vehicle under the vehicle heading (8703, 8704, etc.) but at a lower duty rate than the CBU. To qualify for CKD treatment, the vehicle must be imported in unassembled form — with major assemblies (engine, transmission, body-in-white) imported separately in a state that requires assembly operations before the vehicle is complete. The customs authority may scrutinise CKD consignments to verify that the degree of disassembly genuinely meets the CKD threshold and is not a "SKD" (Semi Knocked Down) import attempting to claim CKD duty rates. The distinction between CKD and SKD is determined by the degree of assembly of major components at the time of import: a body shell that has been welded and painted at the overseas factory is a major assembled component and its import as part of a consignment may result in the consignment being classified as SKD rather than CKD for duty purposes.

2.3 FTA Benefits and the "Permit of Origin" Requirement

India has concluded Free Trade Agreements (FTAs) and Preferential Trade Agreements (PTAs) with several countries and trading blocs that provide reduced or zero customs duty rates for qualifying goods, including motor vehicles. The FTAs relevant to automobile imports include: the India-ASEAN FTA (effective from 2010, covering imports from Thailand, Indonesia, Malaysia, and other ASEAN members with progressive tariff reduction for vehicles); the India-South Korea CEPA (Comprehensive Economic Partnership Agreement, 2010, providing reduced duties on Korean-origin vehicles over a phased schedule); the India-Japan CEPA (2011, covering Japanese-origin vehicles); and the India-UAE CEPA (2022, covering UAE-origin goods). Each FTA specifies the applicable tariff reduction schedule (from the MFN rate to the preferential rate over a specified period), the "Rules of Origin" requirements that a vehicle must satisfy to qualify for the preferential duty rate, and the documentation (typically a "Certificate of Origin" or "Proof of Origin" issued by the competent authority in the exporting country) required to claim the preferential rate.

The Rules of Origin under each FTA specify the minimum value addition or manufacturing process that must be performed in the FTA partner country for the vehicle to be considered "originating" in that country for preferential duty purposes. A vehicle assembled in an FTA partner country from largely imported (non-originating) components may not satisfy the Rules of Origin if the value addition in the partner country is below the threshold specified in the FTA. For example, a vehicle assembled in Thailand from Japanese-origin engine, Korean-origin transmission, and Chinese-origin body parts may not satisfy the ASEAN-India FTA's rules of origin, and would therefore not qualify for the preferential ASEAN duty rate on import into India. The verification of Rules of Origin compliance — and the risk of customs authorities challenging the validity of a Certificate of Origin — is a significant area of customs compliance risk for importers claiming FTA benefits.

DGFT, Foreign Trade Policy and Export Promotion

FTDR Act, ITC(HS) Codes, DGFT Notifications, Advance Authorisation, and EPCG for the Automobile Industry

3.1 The DGFT and the Foreign Trade Policy Framework

The Directorate General of Foreign Trade (DGFT) — operating under the Ministry of Commerce and Industry and exercising powers under the Foreign Trade (Development and Regulation) Act, 1992 (FTDR Act) — is the nodal authority for India's import and export policy, including the Foreign Trade Policy (FTP) that governs the export promotion schemes, advance licensing arrangements, and export obligations applicable to the automobile sector. The FTDR Act, 1992 empowers the Central Government to make provisions by order or Rules for the development and regulation of foreign trade, and the DGFT is vested with the function of administering these provisions through the Foreign Trade Policy (currently the FTP 2023) and the associated Handbook of Procedures. For automobile manufacturers and exporters, the FTP's provisions on duty drawback, Advance Authorisation, Export Promotion Capital Goods (EPCG) scheme, and the remission schemes create significant opportunities for reducing the cost of imported inputs and capital equipment used in vehicle manufacturing and export.

The ITC(HS) (Indian Trade Classification — Harmonised System) codes under which motor vehicles and their components are classified for trade policy purposes are aligned with (but not identical to) the Customs Tariff Act's classification codes. The DGFT uses the ITC(HS) code to determine: whether a specific product's import is "Free," "Restricted," or "Prohibited" under the Import Policy (Schedule I of the ITC(HS)); what export licensing requirements apply; and which export promotion schemes are available. The ITC(HS) import policy for motor vehicles (S.No. 41) specifies "Free" import status for new vehicles meeting the applicable technical conditions, while used vehicles are "Prohibited" except under specified exemptions.

3.2 Advance Authorisation Scheme

The Advance Authorisation (AA) scheme under the FTP allows manufacturers who use imported inputs in their export products to import those inputs duty-free (exempt from BCD, CVD/IGST, and other customs duties), subject to a pre-defined "Standard Input Output Norm" (SION) or an ad hoc norm approved by the DGFT that specifies the quantity of each imported input required per unit of the exported product. For automobile manufacturers who export vehicles or components, the AA scheme provides duty-free import of engine components, transmission parts, body panels, and other inputs that are incorporated in vehicles exported from India. The scheme requires the exporter to fulfil an export obligation — exporting a specified quantity of the eligible product within the authorisation validity period (typically 18 months from issue of the AA, with provision for extension) — and to submit a "Export Obligation Discharge Certificate" (EODC) to the DGFT upon completion of the export obligation. Failure to fulfil the export obligation within the validity period attracts duty demand and penalties.

The AA scheme has been extensively used by India's large automobile exporters — including Maruti Suzuki, Hyundai, Kia, Honda Cars India, and the two-wheeler manufacturers who are major auto exporters — to reduce the cost of imported components used in export vehicles. For premium OEMs with manufacturing operations in India who also export to overseas markets, the AA scheme provides a significant working capital and input cost advantage, effectively enabling duty-free

procurement of imported inputs for the export production line while maintaining separate duty-paid procurement for the domestic sales line. Managing the customs compliance around this dual-channel procurement system — ensuring that duty-free AA imports are not co-mingled with duty-paid domestic inputs, and that export obligations are fulfilled on time — requires robust customs compliance infrastructure.

3.3 Export Promotion Capital Goods Scheme

The Export Promotion Capital Goods (EPCG) scheme allows manufacturers (including automobile OEMs and component suppliers) to import capital goods — machinery, equipment, and instruments used in the production of export goods — at zero or concessional customs duty, subject to the fulfillment of an export obligation equal to six times the duty saved on the imported capital goods, to be fulfilled over a period of six years from the date of issue of the EPCG authorisation. For automobile manufacturers setting up or expanding Indian manufacturing facilities, the EPCG scheme is a valuable tool for reducing the capital cost of imported manufacturing equipment — robotic assembly lines, press tools, engine manufacturing lines, testing equipment — particularly where the manufacturer commits to a significant export programme from the new or expanded facility.

The EPCG scheme has been used extensively by automotive Tier-1 and Tier-2 component suppliers establishing or upgrading manufacturing capacity in India, leveraging the duty-free import of precision manufacturing equipment (CNC machining centres, die casting machines, quality control instruments) that is not yet available domestically. The interaction between the EPCG export obligation and the manufacturer's actual export programme requires careful planning: the export obligation is calculated at the time of EPCG authorisation based on the projected export volumes, and if actual exports fall short of the obligation (due to market conditions, customer order changes, or manufacturing issues), the duty saved must be repaid with interest and penalties. Managing the EPCG export obligation is therefore a significant compliance management obligation for any automobile sector entity using the scheme.

Grey Market Vehicles, Mis-Declaration and Customs Enforcement

Parallel Imports, Re-import Framework, Temporary Import, Anti-Dumping and Customs Enforcement Priorities

4.1 The Grey Market in Imported Vehicles

The "grey market" in imported vehicles — the informal channel through which vehicles are brought into India without following the official import procedure and without the vehicle having obtained Indian type approval — has been a persistent feature of India's premium automobile market. Grey market vehicles typically enter India through one of several mechanisms: under-invoicing (declaring a lower value for customs purposes than the actual transaction price, to reduce the customs duty paid); mis-classification (declaring a vehicle as a "chassis" or "parts" shipment to attract lower duty rates than the applicable CBU rate); import under diplomatic exemptions or personal effects provisions (which permit individuals importing vehicles for personal use to avoid full BCD, creating a loophole that is sometimes exploited commercially); or outright illegal smuggling (importation without customs clearance through unmonitored entry points). All of these mechanisms violate the Customs Act, 1962 and the Motor Vehicles Act, 1988 (which requires every vehicle to have a valid Indian type approval), and expose importers, dealers, and buyers to serious legal consequences.

From the perspective of legitimate importers and OEMs, the grey market creates unfair competition: grey market vehicles are sold at prices that do not reflect the full customs duty burden, undercutting the official importer's pricing while offering products that may not meet Indian safety and emission standards. The competitive impact is most severe in the Rs. 20–60 lakh premium vehicle segment, where the customs duty differential between a properly cleared CBU import and an illegally imported grey market vehicle can amount to Rs. 10–30 lakh per vehicle. MoRTH and the Customs Department have periodically mounted enforcement actions against grey market vehicle dealers, seizing vehicles, prosecuting dealers, and publicising the legal consequences for buyers who purchase grey market vehicles to deter demand.

4.2 Customs Department Enforcement Mechanism

The Customs Act, 1962 provides comprehensive enforcement powers to deal with customs evasion in vehicle imports. Under Section 111, goods imported in contravention of any prohibition or restriction (including the import conditions under S.No. 41 of the ITC(HS)) are "liable to confiscation." Under Section 112, any person involved in the importation of confiscable goods is liable to a penalty of the greater of Rs. 5,000 or the duty sought to be evaded. Section 132 makes customs fraud (knowingly making a false declaration) a cognisable, non-bailable offence punishable with imprisonment up to three years. The Revenue Intelligence (Directorate of Revenue Intelligence — DRI) conducts targeted intelligence-based enforcement operations against suspected grey market vehicle networks, using customs data analytics to identify patterns of under-invoicing, mis-classification, and misuse of import exemptions, and mounting search and seizure operations against dealers and importers suspected of grey market activity.

4.3 Temporary Import: Carnet de Passage and Event Vehicles

The Customs Act, 1962 and the Customs (Temporary Importation) Regulations permit the temporary import of motor vehicles for specific purposes — including rally and motorsport events, film productions, exhibition display, and testing operations — without payment of full import duties, subject to the vehicle being re-exported within the specified period and a bond or bank guarantee being provided to the customs authority as security for the duty payable if the vehicle is not re-exported. The Carnet de Passage en Douane (CPD) system — administered internationally through the FIA (Fédération Internationale de l'Automobile) and the Automobile Association of India for Indian purposes — provides a standardised international document for the temporary import and transit of vehicles through multiple countries, using a single document rather than separate bonds in each country. The CPD is particularly relevant for rally teams, vehicle delivery overland routes, and corporate car clubs that bring international vehicles to India for events or tours.

India's Automobile Export Framework

Export Promotion, PLI Export Incentives, Duty Drawback, and India as a Global Manufacturing Hub

5.1 India's Automobile Export Potential

India has emerged as a significant global automobile exporter, with annual exports exceeding USD 21 billion in FY2022-23 covering passenger vehicles, commercial vehicles, two-wheelers, three-wheelers, and automotive components. India exports vehicles to over 100 countries, with principal destinations including South Africa, Mexico, Australia, South Asia (Sri Lanka, Nepal, Bangladesh), Middle East and Gulf countries, and selected European markets. The export growth is driven by: the cost competitiveness of Indian manufacturing (particularly for small cars and two-wheelers); the investment by global OEMs in India as an export hub for emerging market models (most prominently by Hyundai, Maruti Suzuki, Kia, and Honda); and the Government's export promotion policies including the Merchandise Exports from India Scheme (MEIS, subsequently replaced by the RoDTEP scheme), duty drawback, and the PLI scheme's export incentive component.

The Production Linked Incentive (PLI) scheme for the automobile sector — notified by the Ministry of Heavy Industries in September 2021 with an outlay of Rs. 25,938 crore over five years — provides incentive payments to eligible OEMs and component manufacturers who achieve specified growth in their India sales over a base year, including sales to both the domestic market and export markets. The PLI scheme's incentive structure is particularly favourable for Advanced Automotive Technology (AAT) products including EVs, hybrid vehicles, hydrogen fuel cell vehicles, and advanced components — with higher incentive rates (up to 18% of incremental sales value) for qualifying AAT products compared to conventional vehicle products. OEMs who structure their Indian manufacturing operations to maximise PLI-eligible advanced technology product sales — both domestically and for export — can generate PLI incentive payments that significantly improve the economics of their Indian manufacturing investments.

5.2 Duty Drawback on Vehicle Exports

The Duty Drawback scheme under Section 74 of the Customs Act, 1962 (re-export drawback for previously imported goods) and Section 75 (manufacture and export drawback for goods manufactured using imported inputs) provides for the refund of customs duties paid on inputs that are incorporated in exported goods. For automobile exporters who use imported components (engines, transmissions, electronics, specialty materials) in their exported vehicles, the duty drawback mechanism refunds the customs duty paid on these imports, reducing the effective input cost of exported vehicles and improving export competitiveness. The All-Industry Drawback Rates (notified annually by the CBIC based on average input-output ratios and duty data) provide a simplified drawback mechanism that does not require the exporter to track the duty paid on each individual imported input — the drawback is calculated as a fixed percentage of the export value. Exporters who paid higher duties than the all-industry rate can apply for Brand Rate fixation, obtaining a customised drawback rate based on their actual input costs.

Anti-Dumping, Safeguard Measures and Trade Remedy Law

DGTR Investigations, Anti-Dumping Duty on Automotive Products, Rules of Origin Circumvention, and WTO Compatibility

6.1 India's Trade Remedy Framework

The Customs Tariff Act, 1975, as amended to incorporate the provisions of the WTO Anti-Dumping Agreement and the Safeguard Agreement, provides for the imposition of: anti-dumping duties (on imported goods sold in India below their normal value in the exporting country, causing material injury to the Indian domestic industry); countervailing duties (on imported goods benefiting from government subsidies in the exporting country); and safeguard duties (as a temporary measure to protect the domestic industry from a sudden surge in imports). These trade remedy measures are administered by the Directorate General of Trade Remedies (DGTR) under the Ministry of Commerce and Industry. Anti-dumping investigations involving automotive products — including steel, aluminium, rubber, auto glass, and specific vehicle categories — directly affect the cost and availability of inputs for Indian automobile manufacturers and the competitive dynamics for imported vehicles.

India has imposed anti-dumping duties on several automotive input materials in recent years, including: certain grades of flat rolled steel products used in vehicle body manufacturing; aluminium alloy wheels and wheel rims; and pneumatic rubber tyres from China and other countries. These anti-dumping measures protect the domestic producers of these inputs from unfair competition, but they simultaneously increase the input cost for Indian automobile manufacturers who use the subject inputs. OEMs caught between the domestic industry's anti-dumping protection and their own preference for the lower-cost imports that prompted the anti-dumping petition must navigate the resulting input cost increase through supply chain optimisation, alternative material specifications, or domestic input development.

6.2 Rules of Origin Circumvention

A significant trade enforcement issue in the automotive sector is the circumvention of customs duty through false claims of origin — specifically, routing shipments of Chinese-origin vehicles or components through third countries to claim FTA benefits applicable to the transit country rather than the actual country of manufacture. The DGTR has the authority to conduct "anti-circumvention" investigations and to extend anti-dumping duties to imports from third countries that are found to be used as conduits for circumventing the original anti-dumping measure. For automobile importers seeking to use FTA certificates of origin to reduce customs duty on imported vehicles, the Rules of Origin verification process conducted by customs authorities is a significant compliance scrutiny that requires comprehensive documentation of the actual manufacturing operations performed in the country of claimed origin.

Booklet III Key Takeaways: India's automobile import-export legal framework is among the most complex and multi-layered in the global automobile market. The CBU/CKD/SKD duty differential creates fundamental strategic choices for OEM market entry and scale. The DGFT's export promotion framework (AA, EPCG, RoDTEP, PLI) provides significant cost reduction opportunities for manufacturing exporters. Grey market enforcement is intensifying, creating risk for informal importers and their customers. FTA benefit claims require rigorous rules of origin documentation. Trade remedy measures (anti-dumping, safeguards)

affect both input costs and competitive dynamics. Practitioners advising automobile importers and exporters must master the interaction between customs law, trade policy, type approval requirements, and commercial strategy to provide effective legal guidance.

India's Automobile Import Framework: Comprehensive Legal Analysis

Customs Notifications, Valuation Deep Dive, FTA Implementation, Transfer Pricing, FEMA Compliance and Trade Enforcement

A.1 The Complete Customs Duty Architecture for Automobiles

India's customs duty architecture for motor vehicles is among the most complex in the world, layering multiple duty components on top of each other to arrive at a total incidence that, for premium CBU imports, can exceed 150% of the overseas factory price. The components are: Basic Customs Duty (BCD), levied under the Customs Tariff Act, 1975 at rates of 70% or 100% for CBU passenger cars depending on the FOB value threshold of USD 40,000; Social Welfare Surcharge (SWS), levied at 10% of the BCD, adding 7–10 percentage points; Integrated Goods and Services Tax (IGST), levied on the landed value (assessable value = transaction value + BCD + SWS) at the applicable GST rate for the vehicle category (28% for most conventional vehicles, 5% for EVs); and GST Compensation Cess, levied on the same assessable value as IGST at rates of 1–22% depending on vehicle category. The cumulative effect of stacking IGST and Cess on an assessable value that already includes BCD and SWS creates a compounding effect that amplifies the total duty burden far beyond the nominal BCD rate. A vehicle with a CIF (Cost, Insurance, Freight) value of Rs. 50 lakh attracts BCD of Rs. 35–50 lakh; SWS of Rs. 3.5–5 lakh; an assessable value for IGST/Cess of Rs. 88.5–105 lakh; IGST at 28% of Rs. 24.8–29.4 lakh; and Cess at 22% of Rs. 19.5–23.1 lakh — for a total duty burden of Rs. 82.8–107.5 lakh on a Rs. 50 lakh import price, bringing the total landed cost to Rs. 132.8–157.5 lakh before any additional port handling, transportation, and dealer margin. This arithmetic explains why premium European sedans with European retail prices of EUR 60,000–80,000 (approximately Rs. 55–73 lakh) are sold in India at on-road prices of Rs. 2–4 crore.

For CKD (Completely Knocked Down) imports — where the vehicle is imported in unassembled component form for assembly at an Indian manufacturing facility — the applicable customs duty rates are substantially lower, creating the financial justification for the large capital investment required to establish a local assembly plant. CKD component imports under Heading 8703 attract BCD at 15–35% depending on the specific component category, compared to 70–100% for CBU. The annual cost saving from CKD versus CBU duty treatment on a model selling 10,000 units per year at a component import value of Rs. 15 lakh per unit is: $(70\% - 25\%) \times \text{Rs. } 15 \text{ lakh} \times 10,000 \text{ units} = \text{Rs. } 675 \text{ crore per year}$ — a saving that easily justifies an assembly plant investment of Rs. 500–1,000 crore, with the investment paying back in one to two years of production. This simple arithmetic drives the market entry calculus for every volume-segment premium OEM entering India: at what sales volume does the CKD duty saving justify the CKD assembly investment? For most OEMs, this threshold is in the range of 5,000–10,000 units per year, and models that achieve this volume within two to three years of market entry are typically transitioning from CBU to CKD in their third or fourth year of India operations.

The customs classification of vehicle sub-assemblies in the CKD context is one of the most commercially significant and frequently disputed areas of automotive customs law. When a vehicle manufacturer imports vehicle components in "CKD" condition, the customs authorities must determine whether the consignment constitutes a "vehicle" (classified under Heading 8703 at vehicle duty rates) or "parts and accessories" (classified under Heading 8708 at parts duty rates, typically 7.5–15% BCD). The key legal principle established by the Supreme Court in *J.K. Cotton Spinning and Weaving Mills Co. Ltd. v. Union of India*

and in subsequent customs tribunal decisions is that a CKD kit that, taken together, constitutes a "complete" vehicle (containing all the components necessary to assemble a complete vehicle) should be classified as a vehicle under Heading 8703 rather than as parts under Heading 8708 — the "dominant impression" or "essential character" principle applied to CKD kits. OEMs who structure their CKD import programs by splitting the import into multiple partial consignments — each of which individually contains only a subset of the components needed for a complete vehicle — risk customs reclassification if the authorities determine that the splitting is artificial and that all the consignments together form a complete vehicle for classification purposes.

A.2 GST on Automobile Imports: IGST and the Import Ecosystem

The IGST (Integrated Goods and Services Tax) payable on import of motor vehicles — computed under Section 3(7) of the Customs Tariff Act, 1975 as amended by the GST legislation — is a critical component of the total import cost and has significant implications for the importer's working capital and pricing. Unlike BCD (which is a permanent cost absorbed into the vehicle's landed cost), IGST paid on import is eligible for credit (as Input Tax Credit or ITC) when the importer is a GST-registered business. An authorised vehicle dealer who imports CBUs and sells them to registered business buyers can in principle claim ITC on the IGST paid at import, offsetting it against the IGST collected on domestic sales. However, the Section 17(5)(a)(ii) ITC restriction — which blocks ITC on motor vehicles used for transportation of persons with seating capacity not exceeding 13, when used for purposes other than specified permitted purposes — affects the ITC chain: buyers who use the imported vehicles for employee transport or executive use (not for supply of transportation services) cannot claim ITC on the IGST embedded in the vehicle price, making the IGST a permanent cost for these buyers. For automobile importers who sell primarily to corporate fleet buyers, the effective post-ITC cost of their vehicles must be compared against domestically manufactured vehicles on an equivalent basis — factoring in whether the corporate buyer can claim ITC on the domestically manufactured vehicle's GST component (unlikely, given Section 17(5)) or not.

A.3 Advance Pricing Agreement: Customs Valuation Certainty

The Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020 — commonly known as CAROTAR — introduced by the Central Board of Indirect Taxes and Customs (CBIC) in August 2020 establish a comprehensive verification framework for importers claiming preferential duty benefits under FTAs. Under CAROTAR, Indian customs authorities have the power to: require importers to produce detailed information about the origin of goods imported under FTA claims, including the manufacturing operations performed in the origin country, the value of non-originating materials, and the rules of origin criteria claimed; conduct post-clearance audits of FTA origin claims; and reject FTA preferential treatment and demand the full MFN duty (plus interest) where origin claims are found to be false or unsupported by adequate documentation. For automobile importers claiming FTA benefits (particularly under the India-ASEAN, India-South Korea CEPA, or India-Japan CEPA frameworks), CAROTAR compliance requires: maintaining complete country-of-origin documentation for every imported consignment; ensuring that the Certificate of Origin (or, under certain FTAs, a self-declaration of origin) accurately reflects the origin determination made by the manufacturer; and being able to provide detailed manufacturing cost and process information to customs authorities upon request, including within the short timeframe specified in CAROTAR for responding to origin verification queries.

For OEMs who import vehicles under FTA preferential rates (claiming, for example, ASEAN FTA rates on Thai-assembled vehicles), CAROTAR compliance requires close coordination with the overseas manufacturing affiliate to maintain: a Bill of

Material (BOM) for each vehicle model showing the origin of each component; a cost build-up showing the proportion of FTA-originating value in the total vehicle value; and factory documentation demonstrating the specific manufacturing processes performed in the origin country. If customs authorities determine that a vehicle claiming ASEAN origin fails the ASEAN FTA's rules of origin (because, for example, the proportion of ASEAN-origin materials in the vehicle's value is below the minimum required threshold), the importer faces demand of the full MFN duty differential (potentially 70–100% BCD minus the claimed ASEAN FTA rate) plus applicable interest for all consignments cleared under the incorrect FTA claim, potentially representing a multi-crore duty demand for a year's worth of shipments.

A.4 Temporary Import: Motor Show and Testing Vehicles

The temporary import of motor vehicles for exhibition, testing, and motorsport purposes is an important facilitation mechanism for automobile manufacturers and importers who need to bring prototype vehicles, concept cars, or specialised test vehicles into India without subjecting them to the full import duty burden applicable to commercial CBU imports. The Customs Act, 1962 provides for temporary importation under Section 74 (re-export drawback of goods previously imported) and through the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 for goods imported for specific permitted purposes. Motor show vehicles — concept cars and pre-production models brought to India for display at the Bharat Mobility Global Expo or other automobile exhibitions — can be imported duty-free under a bond or bank guarantee provided to customs, with the understanding that the vehicles will be re-exported within the specified period (typically within 6 months of import) and will not be sold or permanently transferred to an Indian buyer. The failure to re-export within the permitted period triggers the forfeiture of the guarantee and assessment of the full import duties on the temporarily imported vehicles, creating significant financial exposure for importers who fail to comply with the re-export obligation or who neglect to seek timely extensions from the customs authority when re-export is delayed.

For rally and motorsport events — including the domestic rally championships and the increasing number of international motorsport events held in India — temporary importation of purpose-built racing and rally vehicles is facilitated through the Carnet de Passage en Douane (CPD) system administered by the Automobile Association of India (AAI) on behalf of the Alliance Internationale de Tourisme (AIT). The CPD provides a standardised international customs clearance document that allows a vehicle to be temporarily imported into India (and temporarily exported from India to participate in international events) without payment of customs duties, subject to the vehicle being re-exported within the validity period of the CPD. For automobile manufacturers and their motorsport subsidiaries participating in international rally championships that include Indian rounds, the CPD system provides the administrative framework for efficient customs compliance, but the interaction between the CPD's temporary import validity and the Indian motorsport event's scheduling requires advance planning and close coordination with customs authorities and the AAI.

A.5 Export Promotion: RoDTEP and the Automobile Sector

The Remission of Duties and Taxes on Exported Products (RoDTEP) scheme, introduced in January 2021 as the replacement for the Merchandise Exports from India Scheme (MEIS), provides duty remission to exporters of goods to cover the embedded duty and tax costs that cannot be claimed as ITC or refunded under other schemes. The RoDTEP rate for automobile exports (classified under Chapter 87 of the Customs Tariff) has been notified at specified rates (as a percentage of the FOB export value) based on the estimated duty and tax incidence on the exported product at each stage of the value chain. For passenger car

exporters, the RoDTEP rate provides a small but financially meaningful contribution towards the cost of embedded taxes (such as stamp duty, fuel taxes on transport, mandi taxes, and other non-creditable tax costs) that cannot be recovered through the GST refund mechanism. The RoDTEP rates are periodically reviewed and revised by the Inter-Ministerial Committee on RoDTEP, and OEM export divisions must track the current applicable rates for each export product category to accurately model their export economics.

India's automobile export competitiveness — the ability to sell India-manufactured vehicles in international markets at prices competitive with vehicles manufactured in Thailand, Indonesia, South Africa, or Mexico — depends on the effective management of all export cost components: manufacturing cost (influenced by PLI incentives, input material duties, labour productivity, and energy costs); export incentives (RoDTEP, duty drawback, EPCG benefits); logistics cost (port proximity, container availability, Ro-Ro vessel frequency); and customs duties in the destination market (influenced by India's FTA coverage with key export markets). The development of India as a global automobile export hub — particularly for small cars and two-wheelers targeting emerging market customers in Africa, the Middle East, Latin America, and South Asia — is a key policy objective that influences the design of every major trade and industrial policy instrument affecting the automobile sector, from the PLI scheme's export incentive component to the FTA negotiation priorities of the Ministry of Commerce.

A.6 Anti-Dumping on Automobile Inputs: Strategic Implications

Anti-dumping duties on automobile sector inputs have a direct impact on OEM manufacturing economics and supply chain decisions. The DGTR's recent and ongoing anti-dumping investigations affecting the automobile sector include: investigations on high-strength steel grades used in vehicle structural components; investigations on specific categories of aluminium extrusions used in EV battery casings and structural applications; and investigations on technical textile products (aramid fibre, high-performance glass fibre) used in composite components. OEMs who use the subject goods must monitor DGTR investigation status carefully, as: provisional anti-dumping duties take effect immediately upon DGTR's recommendation to CBIC, without waiting for final determination; the retroactive application of definitive duties to imports made during the provisional duty period creates retrospective cost exposure for consignments already cleared; and the termination of an anti-dumping investigation without duty imposition (where DGTR finds insufficient evidence of dumping or injury) restores the pre-investigation duty position, creating a "duty holiday" opportunity for competitive sourcing during the investigation period. OEM supply chain counsel must advise clients on the investigation timeline, the likely outcome based on comparable cases, and the import strategy to manage duty risk during the investigation period — whether to continue importing from the under-investigation source (accepting provisional duty risk if duties are imposed) or to diversify to alternative sources (incurring supply chain transition costs but eliminating the provisional duty exposure).

Booklet III: Complete Coverage Summary — India's automobile import-export legal framework creates a complex but commercially navigable environment for sophisticated market participants. The CBU-CKD-SKD duty differential drives fundamental market entry strategy decisions; CAROTAR compliance for FTA claims demands systematic origin documentation; customs valuation and transfer pricing management requires integrated multi-disciplinary planning; the export promotion framework (RoDTEP, drawback, EPCG, PLI) creates meaningful competitive advantages for export-oriented manufacturing; trade remedy investigations require proactive monitoring and supply chain risk management; and the FEMA and GST frameworks create compliance obligations across every import and export transaction. Practitioners advising automobile importers and

exporters must bring genuine expertise across customs law, trade policy, foreign exchange, transfer pricing, and competition law to provide commercially effective legal counsel that translates regulatory complexity into actionable strategic advice.