

SETTLEMENT AGREEMENT

I. PARTIES

This Settlement Agreement (the “Agreement”) is entered between the United States of America, acting through the United States Department of Justice (DOJ) on behalf of U.S. Customs and Border Protection (CBP) (collectively, the United States), and Ford Motor Company (Ford), acting through its authorized representatives (collectively, the “Parties”).

II. PREAMBLE

A. Ford designs, manufactures, assembles, produces, markets, and sells cars and trucks and currently operates across North America and in over 125 countries around the world. Ford was the importer of record for approximately 162,833 Transit Connect vehicles, some of which contained a “6” or “7” in the sixth digit of the vehicle identification number (VIN) (“Transit Connect 6/7”) and the rest of which contained a “9” in the sixth digit of the VIN or Transit Connect battery electric vehicles (“BEV”) that contained a 4 in the eighth digit of the VIN, all of which were imported from the Republic of Turkey and entered into the commerce of the United States from approximately April 2009 through August 2013 as part of the Transit Connect V227 program (the “Subject Vehicles”).

B. The United States contends that it has certain civil claims against Ford for causing the Subject Vehicles to be entered or introduced into the commerce of the United States in violation of 19 U.S.C. § 1592(a), which allows for the recovery of civil penalties and lost duties for any merchandise entered or introduced into United States commerce by means of material false statements and/or material omissions that were the result of fraud, gross negligence, or negligence. Specifically, the United States contends that Ford’s violations of 19 U.S.C. § 1592 are based on the following conduct (the “Ford Covered Conduct”):

1. At all relevant times, United States law imposed a 25 percent duty rate on vehicles classified as “Motor vehicles for the transport of goods” under subheading 8704.31.00, of the Harmonized Tariff Schedule of the United States (HTSUS), and imposed a 2.5 percent duty rate on vehicles classified as “Motor cars and other motor vehicles principally designed for the transport of persons” under HTSUS subheading 8703.23.00.
2. Ford misclassified certain Transit Connect 6/7 vehicles as “Motor cars and other motor vehicles principally designed for the transport of persons” under HTSUS subheading 8703.23.00, rather than “Motor vehicles for the transport of goods” under HTSUS subheading 8704.31.00.
3. To avoid the 25 percent duty rate, Ford entered under HTSUS subheading 8703.23.00 certain Transit Connect 6/7 vehicles with temporary, rear seats that were never intended to, and never would, be used to carry passengers.
4. In addition to the presence of sham seats, many other features of the Transit Connect 6/7s made clear that the vehicles were not intended principally to transport passengers, including rear doors that were designed for ease of loading cargo; rear seats without headrests and certain wires that provide lumbar support; reduced-cost fabric covering the rear seats that were different from that covering the front seats; lack of a cargo mat; lack of side airbags, speakers, handholds, or vents behind the front seats; and an exposed metal floor in the back area.
5. After customs clearance, each of these Transit Connect 6/7 vehicles was immediately transported to a port processing facility and stripped of its rear seats and second row seat belts, among other things. Ford also delayed affixing

Monroney labels, which would reflect a 2-seat vehicle, and replaced Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act labels reflecting 4 seats with labels reflecting 2 seats on the Transit Connect 6/7 vehicles thereby concealing from CBP at importation that the vehicles were ordered as, sold as, and were intended to be used as cargo rather than passenger vehicles.

6. At all times, Ford knew that the Transit Connect 6/7 vehicles were intended to be sold, and in fact were designed, offered, marketed, and sold, as cargo vehicles rather than passenger vehicles. Moreover, despite the unprecedented nature of its actions, Ford did not seek a ruling letter from CBP that would have advised Ford as to the correct classification of these vehicles.

7. Ford also underdeclared the value of the Subject Vehicles to CBP by: (i) erroneously calculating non-dutiable charge (NDC) deductions; (ii) double counting American Goods Assembled Abroad (HTSUS 9802) components; (iii) using incorrect HTSUS 9802 values; (iv) using an improper exchange rate; (iv) committing BEV classification errors and invalid BEV 9802 deductions; and (v) failing to declare applicable engineering and tooling costs.

C. Ford denies that the Ford Covered Conduct occurred and/or violated 19 U.S.C. § 1592(a).

D. Ford claims that it has certain claims against the United States, specifically that CBP's handling, processing, and treatment of some or all of the Transit Connect Vehicles constituted a Prior Treatment or an Established and Usual Practice and that CBP's reclassification of the vehicles violated 19 U.S.C. § 1625(c)(2) and 19 U.S.C. § 1315. Ford's

allegations are preserved in *Ford Motor Company v. United States*, No. 21-00091 (Ct. Int'l Trade). (“United States Covered Conduct”).

E. The United States denies that the United States Covered Conduct occurred and/or violated 19 U.S.C. § 1625(c)(2) or 19 U.S.C. § 1315.

F. This Agreement is not an admission of liability by Ford or the United States, nor an admission by Ford or the United States that their respective claims are not well founded.

G. To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above claims, and in consideration of the mutual promises and obligations of this Agreement, the Parties agree and covenant as follows:

III. TERMS AND CONDITIONS

1. Ford agrees to pay to the United States the sum of three hundred sixty-five million dollars (\$365,000,000) (the “Settlement Amount”) by electronic funds transfer pursuant to wire instructions provided in Attachment A no later than seven (7) business days after the Effective Date of this Agreement. Of this Settlement Amount, \$183,476,539.62 constitutes restitution for lost duties and the remainder constitutes penalties.

2. Ford agrees, pursuant to 19 C.F.R. Part 177, to request from CBP a prospective ruling as to classification for certain vehicles that were not previously imported into the United States that Ford begins importing into the United States during the time period beginning on the Effective Date of this Agreement, and continuing for five years thereafter. Specifically, Ford will seek a ruling as to classification for any vehicle that qualifies under one of the following Ford “Event Types”: “All New”; “New Tophat”; “Moderates”; and “Minors”. (See Attachment B). These categories will cover entirely new vehicles, as well as vehicles undergoing significant modifications such as changes in propulsion method, fuel source, or use as a cargo or passenger

vehicle, which could be relevant to classification. After having first made a request for a CBP ruling letter, Ford may, at its own risk, import these vehicles prior to receiving CBP's ruling letter.

3. Ford shall dismiss with prejudice *Ford Motor Company v. United States*, No. 21-00091 (Ct. Int'l Trade), no later than seven (7) business days after the Effective Date of this Agreement.

4. Following its receipt of the payment as specified in paragraph 1 above, and subject to paragraph 6 below, the United States (on behalf of itself, its officers, agents, agencies, and departments) agrees to release Ford from claims under 19 U.S.C. § 1592 for the Covered Conduct.

5. Notwithstanding any term of this Agreement, specifically reserved and excluded from the scope and terms of this Agreement as to any entity or person (including Ford) are the following potential claims of the United States:

- a. Any civil, criminal, or administrative liability arising under Title 26, U.S. Code (Internal Revenue Code);
- b. Any criminal liability;
- c. Except as explicitly stated in this Agreement, any administrative liability or enforcement right, including but not limited to the suspension or debarment rights of any federal agency;
- d. Any liability to the United States (or its agencies) for anything other than the Covered Conduct; and
- e. Any liability based upon obligations created by this Agreement.

6. The United States has sole discretion concerning how to apply the funds received pursuant to this Agreement.

7. This Agreement is intended for the benefit of the Parties only. The Parties do not release any claims against any other person or entity.

8. The Parties may publicly disclose this Agreement.

9. This Agreement constitutes the complete agreement between the Parties with respect to the subject matter hereof. This Agreement may not be amended except in writing and with the written consent of the Parties.

10. Each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

11. This Agreement is governed by the laws of the United States. For purposes of construing this Agreement, this Agreement shall be deemed to have been drafted by all Parties to the Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

12. The undersigned counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the respective Parties indicated below.

13. This Agreement is binding on Ford's subsidiaries, national and international affiliates importing on Ford's behalf, successors, transferees, heirs, and assigns.

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14. This Agreement is effective on the date of signature of the last signatory to the Agreement (Effective Date). Facsimile transmission of signatures and/or digital signatures electronically transmitted shall constitute acceptable binding signatures for purposes of this Agreement.

FOR THE UNITED STATES OF AMERICA:

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

PATRICIA M. McCARTHY
Director

CLAUDIA BURKE
Deputy Director

By: **FRANKLIN WHITE** Digitally signed by FRANKLIN
WHITE
Date: 2024.03.11 12:12:16 -04'00'

FRANKLIN E. WHITE, JR.
Assistant Director

JUSTIN MILLER Digitally signed by JUSTIN MILLER
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JUSTIN R. MILLER
Attorney-In-Charge
International Trade Field Office

JOSHUA KURLAND Digitally signed by JOSHUA
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JOSHUA E. KURLAND
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BEVERLY FARRELL Digitally signed by BEVERLY
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BEVERLY A. FARRELL
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26 Federal Plaza – Room 346
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Dated:

FOR FORD MOTOR COMPANY:

By: **Todd, Gordon D.** Digitally signed by Todd, Gordon D.
Date: 2024.03.08 20:59:56 -05'00'

GORDON D. TODD
SIDLEY AUSTIN LLP
1501 K Street, NW
Washington, D.C. 20005
(202) 736-8706

Dated:

ATTACHMENT A

**FEDWIRE Electronic Funds Transfer
to the
United States Department of Justice**

Notice Date: 2/27/2024
Expected Date: 3/11/2024

Ford Motor Company

To transfer funds electronically to:

**Federal Reserve/United States Treasury Department
33 Liberty Street
New York, NY 10045**

for Credit to the United States Department of Justice, the following information must be provided to the bank from which the funds are to be transferred. This information will enable the sending bank to complete those fields associated with the beneficiary bank of a "*FedWire Structured Third Party Format*" electronic funds transfer.

FedWire U.S. Bank Reminder: FedWires can be transferred internationally, however they must be sent via a U.S. Bank.

DOJ EIN: [REDACTED]

ITEM	DESCRIPTION	CODING INFORMATION FOR FEDWIRE FORMAT
2	Receiving Bank ABA Code	[REDACTED]
3	Message Type Code	1000
7	Wire Amount	\$365,000,000.00
9	Receiver ABA name/Business Func code	TREAS NYC/CTR
10	Beneficiary Name	DOJ/JMD/DCM
11	Account No.	[REDACTED]
12	Required Beneficiary Information: *Collection Office Identifier *Debtor Name *DJ Number *CDCS Number *EFT No.	CIV/NCORT Ford Motor Company 54-2853 [REDACTED] CIV24E156

ATTENTION FINANCIAL LITIGATION PERSONNEL:

The debtor/debtor's attorney must provide this form to the bank from which the funds are to be transferred to ensure that the electronic transfer of funds is accomplished and properly credited to the United States Department of Justice/Debt Accounting Operations Group.

AUTHORITY:

The above information requirements are in accordance with the United States Treasury Department "Treasury Requirements Manual/Part 6 - Chapter 8000"; Appendix E of the "Federal Reserve Bank Funds Transfer Systems Manual"; and 31 CFR Part 206 (Federal Register - Vol. 59, No. 20).

Questions regarding this FedWire EFT should be directed to the responsible Collection Office:

POINT OF CONTACT: [REDACTED]
TELEPHONE NUMBER: [REDACTED]

Limited Official Use

ATTACHMENT B

FORD EVENT TYPES

Event Type – The type of freshening program which a nameplate (model) undergoes. Cadenced freshening program types include: All New, New Tophat, Moderate, Minor.

Cadenced means occurring on a regimented timeline, *e.g.* occurring every xx years.

All New – A ground-up, large scope program on a new vehicle platform; or an introduction of a new nameplate.

Platform refers to the structural foundation upon which a vehicle is built. It encompasses a shared set of common design, engineering, and production elements, as well as major components, across multiple outwardly distinct models or even different types of cars. These platforms serve as the underlying framework that supports the entire vehicle.

New Tophat – A large scope program on a carryover vehicle platform. Typically, both the exterior and interior are significantly refreshed.

Moderate – A medium scope program on a carryover platform. Typically includes full front clip changes (typically front fascia, hood, and/or front fenders) and interior trim updates. However, many program scopes are possible and typically defined based on each vehicle's unique segment needs.

Minor – A lesser freshening than a Moderate, on a carryover platform. Typically includes new headlights/taillights, grille.