

April 30, 2024



Ms. Elizabeth L.D. Cannon
Executive Director, Office of Information and Communications Technology and Services
Bureau of Industry and Security, U.S. Department of Commerce
Herbert C. Hoover Building
1401 Constitution Ave. NW
Washington, DC 20230
Filed Electronically: [regulations.gov](https://www.regulations.gov)

RE: Request for Comments; Securing the Information and Communications Technology and Services Supply Chain: Connected Vehicles

Dear Executive Director Cannon:

The Alliance for American Manufacturing (AAM) appreciates the opportunity to respond to the U.S. Department of Commerce's (Department) Bureau of Industry and Security (BIS) request for public comment regarding its advance notice of proposed rulemaking (ANPRM) to prohibit information and communications technology and services (ICTS) transactions of foreign adversaries related to connected vehicles (CVs). *AAM responds to question #1 regarding the definitions to use for a rule regarding transactions involving ICTS integral to CVs.*

About the Alliance for American Manufacturing

The Alliance for American Manufacturing (AAM) is a non-profit, non-partisan partnership formed in 2007 by some of America's leading manufacturers and the United Steelworkers. Our mission is to strengthen American manufacturing and support new private-sector jobs through smart public policies. We believe that an innovative and growing manufacturing base is vital to America's economic and national security, as well as to providing good jobs for future generations. AAM achieves its mission through research, public education, advocacy, strategic communications, and coalition building around the issues that matter most to America's manufacturers and workers.

AAM Strongly Agrees that CVs Can Allow Foreign Adversaries to Disrupt our Economic and National Security

AAM agrees with BIS that CVs afford foreign adversaries with unprecedented opportunities to compromise U.S. economic and national security. AAM appreciates that the Department is taking the first steps to address this danger by seeking comments on an ANPRM and urges it to proceed swiftly and to take decisive action to address this threat.

As a threshold matter, AAM agrees that BIS has the authority to impose restrictions and agrees with the findings of the BIS, particularly as they pertain to the People's Republic of China (PRC):

"The PRC presents a particularly acute and persistent threat to the United States ICTS supply chain. According to the Office of the Director of National Intelligence, the PRC likely represents the broadest, most active, and persistent cyber espionage threat to U.S. Government and

private-sector networks. *See Off. Of the Director of Nat'l Intelligence, Annual Threat Assessment of the U.S. Intelligence Community (2023).*¹

“The PRC is almost certainly capable of launching cyber-attacks that could disrupt critical infrastructure services within the United States and has conducted cyber espionage operations that have compromised telecommunications firms, providers of managed services, and broadly used software. ... In short, the PRC has engaged in a pattern of hacking and cyber intrusion that demonstrates the PRC’s intent to compromise and exploit U.S. ICTS supply chains and critical infrastructure, threatening U.S. national security.”²

The urgency to address these threats was recently underscored by FBI Director Christopher Wray, who on April 18, 2024, at the Vanderbilt Summit on Modern Conflict and Emerging Threats in Nashville, warned that risks the government of China poses to U.S. national and economic security are “upon us now” – and that U.S. critical infrastructure is a prime target – saying:³

“The PRC has made it clear that it considers every sector that makes our society run as fair game in its bid to dominate on the world stage, and that its plan is to land low blows against civilian infrastructure to try to induce panic and break America’s will to resist.”

“The fact is, the PRC’s targeting of our critical infrastructure is both broad and unrelenting... It’s using that mass, those numbers, to give itself the ability to physically wreak havoc on our critical infrastructure at a time of its choosing.”

AAM notes that the U.S.-China Economic and Security Review Commission’s (USCC) 2021 Report recommended action to address this emerging threat by requiring:⁴

“...that the U.S. Department of Transportation, in consultation with the U.S. Departments of Commerce, Energy, and Defense, and law enforcement authorities, develop regulations limiting access for Chinese-owned firms developing autonomous vehicle capabilities to protect U.S. national and economic security interests. In preparing such regulations, the authorities should consider the extent to which the Chinese government limits access of U.S. firms for similar uses. Specific attention should be given to data collection activities that may advance the interests of the Chinese military or intelligence agencies. In addition, [this effort should] address any need to protect the data utilized and collected by autonomous vehicles produced and/or serviced by Chinese-owned firms.”

¹ Available at <https://www.dni.gov/files/ODNI/documents/assessments/ATA-2023-UnclassifiedReport.pdf>.” 89 FR 15068

² 89 FR 15068-15069

³ FBI.gov News: “Chinese Government Poses ‘Broad and Unrelenting’ Threat to U.S. Critical Infrastructure, FBI Director Says,” April 18, 2024. Link: <https://www.fbi.gov/news/stories/chinese-government-poses-broad-and-unrelenting-threat-to-u-s-critical-infrastructure-fbi-director-says>

⁴ USCC 2021 Report, Page 167. Link: https://www.uscc.gov/sites/default/files/2021-11/Chapter_2_Section_2--CCPs_Economic_and_Technological_Ambitions.pdf

This USCC recommendation was developed based on hearings and its work identifying connected vehicles, produced by Chinese entities, as having negative national security implications.

AAM Supports Strong Rules to Mitigate and Prohibit ICTS Transactions Involving Connected Vehicles from Foreign Adversaries Including the People’s Republic of China

Bold action is required to stem the threat of automobile imports from China’s manufacturers to our economic and national security. The Department should proceed with haste to propose robust rules, free of any loopholes, that create a strong policy framework to impose the strongest possible mitigation measures and to prohibit such ICTS transactions where there are “undue or unacceptable risks,” as outlined in the ANPRM.

- AAM strongly supports the use of all authorities available to the Department to thoroughly address the national security risks associated with ICTS transactions involving connected vehicles (CVs) by the People’s Republic of China (PRC) and any other “foreign adversary” as defined in E.O. 13873 and codified in 15 CFR 7.4(a). AAM supports taking such actions on a category- or class-wide basis to *prohibit* vehicles manufactured by Chinese firms from entering or being sold into the United States.
- BIS rules applicable to ICTS and CVs should not be easily circumvented by moving production to subsidiary entities in countries not identified in 15 C.F.R. § 7.4. BIS, therefore, should ensure that its rules apply to ICTS that are designed, developed, manufactured, or supplied by persons owned by, controlled by, or subject to the jurisdiction or direction of a 15 CFR § 7.4 entity, including those ICTS designed, developed, manufactured, or supplied by persons controlled by another that is subject to the jurisdiction of a 7.4 entity.
- This ANPRM is an important step forward and must be advanced as part of a comprehensive approach, including the use of any and all available trade and national security tools to address this issue. AAM has called for a broad range of measures, as outlined in these comments, including imposing exclusionary tariffs, strengthening rules of origin and other content requirements in trade agreements, imposing market limitations and prohibitions, and strictly enforcing eligibility for EV tax credits based on battery and vehicle content.

AAM is Concerned that the Introduction of Chinese Automobiles Could End Up Being an Extinction-Level Event for the U.S. Auto Sector

On February 23, 2024, the Alliance for American Manufacturing issued a [report](#) entitled, “*On a Collision Course: China’s Existential Threat to America’s Auto Industry and its Route Through Mexico*,” that documents the threat of Chinese autos to U.S. national security and economic stability.

Excerpts from the report:⁵

⁵ All citations are noted in the report, which is available at: <https://www.americanmanufacturing.org/wp-content/uploads/2024/02/on-a-collision-course-report-final-022324.pdf>

The introduction of cheap Chinese autos – which are so inexpensive because they are backed with the power and funding of the Chinese government – to the American market could end up being an extinction-level event for the U.S. auto sector, whose centrality in the national economy is unimpeachable.

The U.S. auto sector accounts for 3% of America's GDP. It is annually responsible for tens of billions of dollars of annual research and development spending. It supports an entire ecosystem of manufacturers, from steelmaking to semiconductor fabrication. And for nearly a century, it has provided reliable, well-compensated employment for millions of American workers of various levels of educational attainment, making it a pillar of the American middle class.

The U.S. auto sector and its extensive domestic supply chain, however, face a growing threat from Chinese competitors, buoyed by the Chinese state. While direct imports of Made in China automobiles have until now been extremely limited, China's auto sector is hardly the uncompetitive laggard of decades past. Thanks to the Chinese Communist Party's (CCP) industrial planning and generous assistance that began in the wake of the 2009 financial crisis, its state-owned and state-supported manufacturers are poised to dominate the burgeoning global EV market. China is estimated to have spent tens of billions of dollars to create an auto sector ready to take advantage of the clean energy shift, with support including tax breaks, favorable lines of credit, land use agreements, extremely limited import competition, and often direct subsidization. Chinese automakers have also benefited from mandatory joint ventures with and forced technology transfers from foreign firms seeking to gain access to the vast Chinese auto market. And, most egregiously, they benefit from the use of forced labor in their supply chains.

The Chinese auto industry's growth has been exponential. The country became the world's leading auto exporter in 2023, selling cars in Europe, Australia, Africa, Mexico and Southeast Asia, and Chinese automakers lead the world in EV production and sales by wide margins. China's technological lead and its extensive supply chains, particularly for critical battery raw materials and components, are deep and secure because of its defined and deliberate industrial policies. Beijing has prioritized reducing dependencies on other countries, which in turn makes the world increasingly dependent on its own supply chains.

And the results of China's industrial bets – mammoth entities like BYD, SAIC Motor and battery maker CATL – are this effort's champions. They are expanding rapidly, without consideration to supply and demand and basic market forces, so much that the Chinese auto sector is estimated to have a production overcapacity of millions of vehicles per year. That overcapacity is now facing outward, in search of new markets to soak up the largesse.

BYD, which became the world's largest EV manufacturer in 2023, is building a factory in the heart of the European Union and is among half a dozen Chinese companies preparing to manufacture in Thailand, thereby gaining access to nearby markets through regional trade pacts.

More alarming, however, are Chinese firms' heavy spending on plants in Mexico, through which they can access the United States by way of the more favorable tariffs under the United States-Mexico-Canada Agreement (USMCA). This strategy is, in effect, an effort to gain backdoor access to American consumers by circumventing existing policies that are keeping China's autos out of the U.S. market.

Policy Responses Must Be Comprehensive and Proactive

As outlined in the "On a Collision Course" report, AAM supports adopting a comprehensive, proactive, and ongoing strategy to stymie the CCP's penetration of the U.S. market with automobile imports from Chinese manufacturers.⁶ This should include, but not be limited to the following steps:

- Impose exclusionary tariffs on all automobile imports from Chinese manufacturers to the United States, including electric vehicles (EV), other new energy vehicles, and internal combustion engine (ICE) vehicles.
- Enact the Leveling the Playing Field Act 2.0 (S. 1856 / H.R. 3882) to stay ahead of new and evolving trade enforcement circumvention tactics used by the China's government.
- Reinstating the Section 421 import surge protection safeguard against China's automotive sector and related industries.
- Improve the Steel Import Monitoring and Analysis (SIMA) System, under the Department of Commerce, to identify emerging import trends and allow for a proactive policy response.
- Fully enforce and tighten USMCA rules of origin (ROO) for all automobile content to ensure that only its signatories benefit from the agreement in an equitable manner.
- Exclude automobiles and component parts manufactured by companies headquartered in a non-market economy, such as China, from gaining any preferential treatment under USMCA, GSP, and any other trade agreement.
- Fully implement and enforce the Uyghur Forced Labor Prevention Act (UFLPA) with additional emphasis on metals, automotive parts, and battery content and raw materials utilized in EVs.
- Strictly enforce the Clean Vehicle Tax Credits authorized under the Inflation Reduction Act (IRA) to ensure that upstream content and raw materials from China do not benefit.
- Fully enforce domestic content preference policies (including Buy American and Buy America laws) for automobile content and rolling stock (e.g., rail and buses).

⁶ Details on each policy recommendation are available in the report.

- Tighten existing laws that block China’s state-owned and state-supported companies from accessing taxpayer funded infrastructure projects, including by enacting the Airport Infrastructure Vehicle Security Act (H.R. 2912).
- Enact the Invent Here, Make Here Act (S. 1956) to prevent China from accessing taxpayer-funded research and innovations.

1. In what ways, if any, should BIS elaborate on or amend the potential definition of connected vehicle stated above? If amended, how will the revised definition enable BIS to better address national security risks arising from classes of transactions involving ICTS integral to CVs?

The BIS Potential Definition of CVs Must Be Broadly Interpreted to Include Buses and Similar Rolling Stock Connected Vehicles

AAM urges BIS to ensure that its proposed definition for “connected vehicles” (CVs), which uses the undefined term “an automotive vehicle,”⁷ is interpreted broadly to cover of all types of CVs. This should include all forms of “rolling stock,” including buses, rail cars, monorails, and other rolling stock CVs used in public or private settings, such as transit systems in the United States, major U.S. airports, schools and college campuses, or any other locations in the United States.

These types of CVs pose similar risks to U.S. national security and public safety as compared to car and truck passenger vehicles. While automobiles imported from Chinese manufacturers remain limited in the United States today, rolling stock vehicles, including buses and rail cars, from Chinese manufacturers are already in operation in major U.S. cities and at sensitive locations across the United States, raising the urgency for the Department to move swiftly with a rulemaking process that applies mitigation measures and prohibitions to the broadest possible definition for CVs.

Modern rolling stock systems for these CVs – which frequently operate in proximity to military locations, government buildings, airports, and other sensitive assets of the United States – are embedded with critical technology, including GPS sensors, safety features, and communications systems used by riders.

Additionally, while BIS does not define the term “automobile,” the term automotive is generally construed to mean “self-propelled.” Accordingly, AAM discourages BIS from promulgating rules applicable to ICTS and CVs that excludes from coverage remote controlled and semi-autonomous vehicles and stationary communications equipment and systems that communicate with or control such vehicles.

⁷ BIS proposes the following potential definition of CVs: “...an automotive vehicle that integrates onboard networked hardware with automotive software systems to communicate via dedicated short-range communication, cellular telecommunications connectivity, satellite communication, or other wireless spectrum connectivity with any other network or device. Such a definition would likely include automotive vehicles, whether personal or commercial, capable of global navigation satellite system (GNSS) communication for geolocation; communication with intelligent transportation systems; remote access or control; wireless software or firmware updates; or on-device roadside assistance.”

China's State-Owned and State-Subsidized Rolling Stock Connected Vehicles are Already Operating in the United States

The Department should be fully aware that several Chinese state-owned and state-supported manufacturers – including CRRC and BYD – are already completing final assembly manufacturing in the United States for buses, rail cars, and other “rolling stock” that should be included as CVs under the BIS potential definition. These CVs rely on imported component content from China. In addition, CVs from such manufacturers are imported directly from China for use in various U.S. applications.

Critical to the Department's ANPRM, however, is that the CVs produced by these companies are *already* operating in the United States in highly sensitive locations, such as transit systems, airports, ports, and educational institutions. These vehicles operate in proximity to sensitive locations in the United States, such as military assets, raising serious concerns as to their ability to conduct surveillance or collect data on the movement of goods or other logistical matters. In fact, as discussed below, Congress specifically blocked the Washington Metropolitan Area Transit Authority (WMATA) from awarding a contract for its 8000-series railcar to Chinese state-owned rail manufacturer CRRC knowing that the WMATA Metro system operates near the Pentagon and countless other government buildings carrying out sensitive activities.

As further outlined below, research by Radarlock finds that both CRRC⁸ and BYD⁹ are at the forefront of the PRC's military-civil fusion (MCF) strategy with documented connections to the People's Liberation Army (PLA), China's Communist Party (CCP), and restricted PRC telecommunications entities¹⁰ like Huawei.

Build Your Dreams (BYD)

BYD is now the world's largest electric vehicle manufacturer, and its executives have been outspoken in their plans to one day sell passenger electric vehicles in the United States. In 2008, BYD's chairman “boasted of plans to dominate world auto sales by 2025” and in 2017 a BYD executive said the company planned to sell passenger cars in the United States in “roughly 2 to 3 years.”¹¹ But the Department should be aware that BYD buses, trolleybuses, yard tractors, trucks, and other vehicles are *already* in operation in the United States. BYD operates a manufacturing plant in Lancaster, California.

- BYD's website boasts “more than 18 million zero-emission electric miles driven across America”¹² and that it “now has more than 50 municipal, transit agency, university, airport, federal and other commercial and private-sector bus customers, including the Los Angeles

⁸ “CRRC and Beijing's Dash for Global Rolling Stock Dominance,” Bruyere and Picarsic. Radarlock. October 2019. [Link](#)

⁹ “Building the China Dream: BYD & China's Grand Strategic Offensive,” Bruyere and Picarsic. Radarlock. October 2019. [Link](#)

¹⁰ Section 889 of the FY19 NDAA, Pub. L. No. 115-232, restricts the federal government and grant recipients from doing business with covered Chinese telecom entities.

¹¹ “China's BYD plans to sell passenger cars in U.S. in 2-3 years: executive,” [Reuters](#). January 19 2017.

¹² <https://en.byd.com/bus/>

Department of Transportation, Antelope Valley Transit Authority, Denver RTD, Kansas City International Airport, and Solano County Transit.”¹³

- BYD’s electric buses have been in operation in U.S. cities of all sizes, including but not limited to Columbia, MO,¹⁴ Howard County, MD,¹⁵ Wenatchee, WA,¹⁶ Burlington, NC,¹⁷ Martha’s Vineyard, MA,¹⁸ Baton Rouge, LA,¹⁹
- BYD electric buses operate at major U.S. airports, including Tampa, Atlanta, Kansas City, and Los Angeles.²⁰
- BYD yard tractors operate at U.S. port facilities, including the container terminal in Port Newark, NJ.²¹
- BYD calls itself the “undisputed leader in commercial electric truck deployments.”²²
- BYD refuse trucks were put into use in Seattle, WA.^{23 24}
- BYD provides “innovative mobility solutions for public transportation including school buses and fleet management services...” It was recently announced the BYD’s electric school buses are eligible for purchase under California Department of General Services (DGS) statewide electric school bus contract.²⁵

Some reports have raised quality concerns. For instance, Los Angeles city transit agency staff “called [BYD buses] ‘unsuitable,’ poorly made and unreliable for more than 100 miles,” the *LA Times* reported. Buses used in Los Angeles experienced white smoke from a rear wheel, wouldn’t start on a second run, lost charge after just 68 miles, and stalled on the road. Others serving Disney resorts experienced door and air system failures. In Denver, bus doors would not open or close. In Columbia, Maryland, passengers were “jolted by an explosion and a wheel fire.”²⁶

¹³ <https://en.byd.com/news/byd-produces-400th-bus-in-lancaster/>

¹⁴ <https://en.byd.com/news/columbia-missouri-adds-additional-u-s-built-byd-electric-buses-to-its-growing-zero-emission-fleet/>

¹⁵ <https://ngtnews.com/byd-delivers-battery-electric-buses-maryland-transit-agency>

¹⁶ <https://cleantechnica.com/2023/09/30/byd-cars-arent-in-the-us-yet-but-its-electric-trucks-buses-have-been-serving-americans-for-years/>

¹⁷ *ibid*

¹⁸ *ibid*

¹⁹ *ibid*

²⁰ <https://en.byd.com/news/byd-to-build-electric-buses-for-tampa-international-airport/>

²¹ <https://en.byd.com/news/red-hook-container-terminal-begins-commercial-operation-of-fleet-of-10-byd-heavy-duty-zero-emission-battery-electric-yard-tractors/>

²² <https://en.byd.com/truck/>

²³ <https://en.byd.com/news/press-release-first-electric-class-8-rear-loader-in-the-us-to-service-seattle/>

²⁴ <https://www.waste360.com/fleet-technology/byd-s-electric-refuse-trucks-headed-to-seattle>

²⁵ <https://www.teslarati.com/byd-battery-electric-school-bus-contract-california/>

²⁶ “Stalls, stops and breakdowns: Problems plague push for electric buses,” Paige St. John. *Los Angeles Times*. 20 May 2018.

Meanwhile, BYD’s “private company” status does not mean that it is free of Beijing’s influence. According to the United States District Court for the District of Columbia in the matter of BYD COMPANY LTD v. ALLIANCE FOR AMERICAN MANUFACTURING et al, No. 1:2020cv03458 - Document 27 (D.D.C. 2021):

Even granting BYD’s claim that it is a private company, the Court agrees that “[b]eing a private corporation . . . is not exclusive of, or a bar against, being ‘under the control of’ or being an ‘arm of the state.’”²⁷

Further to this point, the U.S.-China Economic & Security Review Commission has noted:

“...some private Chinese companies operating in strategic sectors are private only in name, with the Chinese government using an array of measures, including financial support and other incentives, as well as coercion, to influence private business decisions and achieve state goals.”²⁸

BIS similarly describes the coercive influence of the CCP over corporate decisions in its ANPRM:

“Beyond legal obligations, companies established in the PRC may be required to create internal Chinese Communist Party (CCP) committees that can exercise influence over corporate decisions...The combination of legal authorities and opaque CCP influence make private companies that are subject to the PRC’s jurisdiction susceptible to requests from intelligence and military officials. PRC officials can compel PRC firms to provide the PRC government with data, logical access, encryption keys, and other vital technical information, as well as to install backdoors or bugs in equipment which create security flaws easily exploitable by PRC authorities.”

A 2019 report, [“Building the China Dream: BYD & China’s Grand Strategic Offensive,”](#)²⁹ analyzes BYD’s role in China’s military-civil fusion strategy:

- “BYD’s role is to obtain technology, information, and positioning from the international market, then to carry those back to the CCP and the People’s Liberation Army (PLA).”
- BYD has a “strategic cooperation” agreement with a PLA-affiliated weapons base: “In 2018, it announced ‘strategic cooperation’ with the China Academy of Launch Vehicle Technology in materials, guidance, sensors, fasteners, testing, parts, commercial aerospace, and autonomy, among other fields. The China Academy of Launch Vehicle Technology is the largest research and production base of missile weapons and launch vehicles in China. Press releases from the time announced this cooperation as a ‘new step’ for both in ‘military-civil integration.’”

²⁷ BYD COMPANY LTD v. ALLIANCE FOR AMERICAN MANUFACTURING et al, No. 1:2020cv03458 - Document 27 (D.D.C. 2021)

²⁸ US-China Economic and Security Review Commission, 2017 Annual Report to Congress, at 3.

²⁹ “Building the China Dream: BYD & China’s Grand Strategic Offensive,” Bruyere and Picarsic. Radarlock. October 2019.

- BYD conducts research alongside the PLA and the weapons industry: “[BYD’s] research and development centers are incubated in at least three ‘military-civil fusion enterprise zones’... the Beijing Daxing Industrial Base focuses on aerospace technology, the weapons industry, new materials, and new energy...”
- BYD received an award for its collaborative efforts with the military: “BYD has been nationally recognized for its collaboration with explicitly military and [military-civil fusion] entities; in 2019, BYD won a coveted National State Council Progress Award for its work in battery technology...”
- BYD has a long-standing and “inseparable” relationship with Huawei: “On March 25, 2019, BYD and Huawei signed a ‘comprehensive strategic cooperation agreement’ to ‘carry out in-depth exchanges and cooperation in automotive intelligent networking, intelligent driving, smart clouds, and smart parks’... ‘BYD’s unmanned driving system,’ declares Huawei’s website, ‘is inseparable from Huawei’s eLTE communication technology’... Huawei labeled BYD a ‘gold supplier’ in 2018... Changsha BYD Electronics produces Huawei mobile phones out of the Changsha Intelligent Terminal Industrial Park...”

CRRC

CRRC, a Chinese state-owned company which been placed on a Department of Defense (DOD) list of [“Communist Chinese military companies”](#) operating directly or indirectly in the United States,³⁰ secured transit railcar contracts in Boston, Philadelphia, Los Angeles, and Chicago with low bids that established competitors were unable to match. CRRC’s Boston bid was more than \$200 million below the next lowest bidder and roughly half that of another established firm. In Philadelphia, a competitor was quoted as saying, “I cannot grasp how they are able to do it at that cost.”³¹

CRRC’s entry into the U.S. transit procurement market is almost assuredly a precursor to an attempt to penetrate the U.S. freight rail market, a sector that not only supports 65,000 manufacturing jobs but is also responsible for moving 40 percent of all goods in the United States including sensitive military products.³²

On January 11, 2018, CRRC (@CRRC_Global) tweeted³³ that it accounts for “83% of all rail products in the world” and suggested it was seeking to conquer “the remaining 17%.”

³⁰ In accordance with the statutory requirement of Section 1237 of the National Defense Authorization Act for Fiscal Year 1999, as amended

³¹ “Mass.-based company with Chinese backing beats local group for SEPTA car contract,” The Philadelphia Inquirer. 21 March 2017.

³² “Will we derail US freight rolling stock production: An assessment of the impact of foreign state-owned enterprises on US freight rolling stock production,” Oxford Economics. May 2017.

³³ This tweet was later deleted.



According to DOD, China’s MCF development strategy “supports the modernization goals of the People’s Liberation Army (PLA) by ensuring its access to advanced technologies and expertise acquired and developed by even those PRC companies, universities, and research programs that appear to be civilian entities.”³⁴

According to the 2019 Radarlock report, “[CRRC and Beijing’s Dash for Global Rolling Stock Dominance](#),” CRRC is Beijing’s national champion in rail and emerging transportation systems and plays a direct role in China’s military-civil fusion strategy.³⁵

- Consistently one of the ten most subsidized companies in China, CRRC’s officials and corporate documents cite the military-civil fusion strategy, Made in China 2025, One Belt One Road, and other central plans as their chief mandate.
- CRRC obtains its technology through “reverse spillovers:” A self-declared “sponge model” of international cooperation, mergers and acquisition, and overseas R&D centers lets it “continuously acquire emerging technologies from host countr[ies].”
- CRRC also collects data abroad: Beijing sees CRRC products as globally proliferated sensors. The company shares those data – and its technology -- with State and military affiliates through military-civil fusion (MCF) zones, the CCP’s “two in one integration platform,” CRRC’s MCF Investment fund, and technology exchanges.
- CRRC partners with now-banned Huawei – as well as Beidou – in building technologies and information systems that threaten individual and data security.

³⁴ <https://www.defense.gov/News/Releases/Release/Article/2472464/dod-releases-list-of-additional-companies-in-accordance-with-section-1237-of-fy/>

³⁵ “CRRC and Beijing’s Dash for Global Rolling Stock Dominance,” Bruyere and Picarsic. Radarlock. October 2019.

- Executives at CRRC wear dual hats as corporate and as Party leaders: “Most of the managers are directly appointed for political purposes.”
- “CRRC has become a famous firm in China. It not only carries Chinese manufacturing to the international community, but it is also an indispensable strategic piece of the country’s One Belt One Road...From the valuation of pricing to the financing of capital to the choice of payment methods, the hands of government support are everywhere.”

Congress Acted in 2019 to Limit Federal Assistance Purchases of Rolling Stock Vehicles Produced by Chinese State-Owned and State-Subsidized Companies, But Loopholes Remain

Regrettably, the penetration of China’s manufacturers into the U.S. market for rolling stock connected vehicles has been enabled with tax dollars in the form of federal assistance granted by federal departments and agencies, including the Federal Transit Administration (FTA), Environmental Protection Agency (EPA), and Federal Aviation Administration (FAA). A diverse set of U.S. funding recipients providing transportation in sensitive settings have used federal assistance to purchase these connected vehicles from Chinese firms.

This prompted Congress’s enactment of Sec. 7613 of the FY 2020 National Defense Authorization Act, also known as the *Transportation Infrastructure and Vehicle Security Act (TIVSA)*, which prohibited the use of U.S. federal assistance by transit project recipients to purchase vehicles from such restricted entities (including BYD and CRRC) that are state-owned or state-supported. At the time, these firms were securing lucrative taxpayer-financed public works *transit* contracts in major U.S. cities, and their business model of importing apparently near-completed vehicles embedded with substantial amounts of parts, components, and upstream content from China for minor assembly in the United States threatened U.S. supply chains, made a mockery of applicable Buy America law, and raised serious national security concerns. Both [labor organizations](#) and [industry](#) sectors raised concerns in support of the TIVSA law.

Research by Oxford Economics estimates that for each U.S. job created by a Chinese SOE, the U.S. loses between 3.5 to 5.4 jobs when factoring in the direct, indirect, and induced economic impact. Put another way, for every \$1 billion of domestic passenger railcar contracts won by foreign SOEs, the U.S. economy could displace between 3,250 to 5,000 U.S. jobs and \$320 million to \$500 million in U.S. GDP.³⁶

Restricting the flow of U.S. tax dollars to these entities was a clear statement by Congress that the People Republic of China (PRC) must not have operational control of or backdoor access to U.S. transportation systems or access to U.S. tax dollars to advance its industrial aspirations and military capabilities. Modern rolling stock systems for these connected vehicles are embedded with critical technology, including GPS sensors, safety features, and communications systems used by riders. For these reasons, lawmakers specifically rejected the possibility that the Washington Metropolitan Area Transit Authority (WMATA) could award its procurement for its 8000-series railcar to CRRC knowing that

³⁶ “Assessing How Foreign State-Owned Enterprises’ U.S. Based Operations Disrupt U.S. Jobs,” Oxford Economics. June 2019. [Link](#)

the WMATA Metro system operates near the Pentagon and countless other government buildings carrying out sensitive activities.

TIVSA Loopholes Remain, Allowing China’s Rolling Stock Manufacturers to Supply Federally Assisted Purchases of Connected Vehicles for Airports, School Buses, and Other Sensitive Applications

The TIVSA law has successfully restricted federal assistance recipients from purchasing CRRC and BYD rolling stock for transit projects, but loopholes in the TIVSA law. Because the TIVSA law only applies to Federal Transit Administration (FTA) programs, these loopholes have allowed these covered entities to continue accessing Federal Aviation Administration (FAA) federally assisted projects at U.S. airports and other locations where the law does not apply. As a result, BYD has begun securing deals to supply its electric buses to major airports across the United States – including Tampa, Kansas City, Atlanta, and Los Angeles. Congress is currently working to address this loophole for airport projects funded with FAA federal assistance.

Meanwhile, EPA administers federal assistance programs for clean school buses, which are produced by Chinese entities.³⁷

TIVSA-Covered Companies Are Poised to Penetrate the U.S. Market for Automobiles

As noted in these comments, BYD is the world’s largest producer of electric vehicles and has been the subject of recent attention due to its intention to establish an auto manufacturing plant in Mexico – right on the doorstep of the U.S. market.

On a bipartisan basis, policymakers have proposed a range of policy options to prevent vehicles manufactured by Chinese companies from being sold in the U.S. market. But BYD’s buses are already in operation in major U.S. cities and at major U.S. airports – made possible with the backing of our own tax dollars. Labor organizations warned in a 2021 letter supporting the TIVSA law that “BYD’s final assembly facility – enabled by U.S. tax dollars – now serves as a foothold for its broader ambitions in batteries and electric vehicles.”

Accordingly, the Department should build upon the successful, but limited, implementation of the TIVSA law as it proceeds with rulemaking on CVs.

Conclusion

Thank you for the opportunity to provide comments on this important issue.

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³⁷ <https://www.epa.gov/cleanschoolbus>