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Editor's Note

Welcome to the February 2025 edition of *Plugged In*. As the EV industry navigates a period of significant transition under a new presidential administration, this edition of our newsletter delves into the shifting landscape of challenges and opportunities, including changing trade and energy policies as well as evolving issues in cybersecurity, all of which are shaping the future for manufacturers and suppliers. Mark Heusel, Chair of Dickinson Wright's East Asia Practice, brings us up-to-speed on the new executive orders and trade policies that have swiftly altered the U.S. approach to electric vehicles and international commerce, including rolling back Biden-era EV incentives and launching an "America First Trade Policy" with aggressive tariff shifts aimed at Canada, Mexico, China, and others. Mark analyzes how this rapid policy shift has created significant uncertainty for the North American auto industry, with far-reaching implications for EV supply chains, U.S. automakers, and global trade. Next, we turn to a sweeping rule promulgated by the Department of Commerce's Bureau of Industry and Security (BIS) aimed at limiting Chinese and Russian influence in U.S. automotive supply chains due to growing concerns over national security risks tied to connected vehicles. Greg Ewing and Lee Petro unpack how these new restrictions, coupled with broader federal cybersecurity measures, could reshape the future of connected vehicle manufacturing and compliance. Finally, as EV uncertainty, looming tariffs, and shifting trade policies create a volatile landscape for suppliers, Bob Weiss highlights recent and noteworthy news articles covering the financial risks, industry reactions, and global ripple effects shaping the future of automotive manufacturing.

Heather Frayre | Member Partner

Trump's America First Policy and the Impact on EVs: Tariffs, Trade and Transitions

On Day One, as promised, President Donald Trump made his intentions clear on electric vehicles (EVs) in several Executive Orders (EO). One EO rescinded former President Biden's EV goals, another called for an elimination of the "EV mandate," whether they be incentives or emissions, and yet another promoted the expansion of American energy and fossil fuels. However, it was his "America First Trade Policy" that should have caught the North American's automotive industry's attention. In this EO, President Trump laid out his trade priorities, emphasizing tariffs, the creation of an External Revenue Service, renegotiation of current trade agreements, including the United States-Mexico-Canada Agreement (USMCA), the use of antidumping and countervailing duties to combat unfair trade, and a review of trade relations with China, including the Phase One U.S.-China Trade Agreement.

Trade Craft Has Become the New Foreign Policy

Despite these Day One Presidential EOs, the North American automotive industry seemed to be caught off guard earlier this month when President Trump announced tariffs on the United States' two biggest trading partners: Canada and Mexico. But, how could the industry not anticipate such a bold move by the Trump administration? The seeds of such a move were well-planted on the President's campaign trail. Certainly, the industry knew of President Trump's penchant for tariffs (often referring to them as "the greatest thing ever invented"). In fact, President Trump's trade policy during his first term was synonymous with tariffs. Fast forward to his most recent presidential campaign, and President Trump doubled down on the effectiveness of tariffs. With promises to curtail illegal immigration on the U.S.-Mexico border central to the campaign, it was not surprising when President Trump aligned illegal immigration and fentanyl trafficking at the southern border with perceived unfair trade practices involving our closest and largest trading partners, a confluence of complaints and objectives we predicted in a prior newsletter. Yet, despite the clear warning, the industry seemed to be caught flat-footed by President Trump's tariffs this month, especially on Canada. Before targeting Canada and Mexico, the administration had threatened tariffs on countries including Colombia, Denmark, and Panama, with ongoing threats against China, Japan, India, and the European Union. Just this week, President Trump expanded his previous tariffs on steel and aluminum articles, going so far as to rescind prior exemptions or exclusions on such products. And, just as we went to press, President Trump announced broad-sweeping reciprocal tariffs on numerous trading partners. When the North American auto industry is simultaneously navigating challenges related to survival and transitioning to EVs, the rapidly shifting trade landscape underscores the volatility now facing the sector. How quickly have the North American automotive industry's objectives and challenges changed?

The Past Decade Has Seen Significant Changes

A decade ago, the North American automotive industry looked very different than it does today. In 2015, the top selling vehicle in the U.S. was the Ford F150 (780,354 units for the entire F-Series), and the Toyota Corolla (363,332 units) was the best-selling passenger car. The Tesla Model S (50,366 units) was the top selling EV that year in both the U.S and the World. Ford's EV offering in 2015 was limited to the Ford Focus, which sold 1,582 units. At the time, discussions around EVs were minimal outside of Elon Musk's early advocacy.

By 2024, Ford's electrified vehicle sales had risen 38% year-over-year to 285,291 units, covering hybrid, plug-in hybrid, and battery-electric models. While losses in the EV sector persisted, the transition continued. Tesla's early dominance, however, was being challenged by Chinese automakers such as BYD, Wuling, Li Auto, and Geely, which had become global EV leaders. A decade ago, you would have been hard-pressed to find a person who could explain tariffs. Back then, the average tariff on U.S. imports across all products was 2.8%. Conversations over tariffs were reserved for economists and historians. But for a short scene in the movie, *Ferris Bueller's Day Off*, where Ben Stein's character explains the failures of the Smoot-Hawley Tariff Act of 1930 to a class of bored high school students, most Americans were oblivious to tariffs. Today, most Americans have a working understanding of tariffs, but still struggle to understand how they impact our daily lives, including whether consumers pay the tax (*hint: they do*).

Tariffs May Be A Favored Negotiating Tool, But They Wreak Havoc On The EV Sector

Tariffs are particularly disruptive to the auto industry, which relies on a global network of supply chains that have been well planned over years and through multiple Presidential Administrations. In fact, it is not uncommon for automotive parts to come from multiple countries, pass through many borders and then pass through again before becoming a finished vehicle. This complex and global supply chain, often misunderstood by politicians (except for those in automotive-centric states), is the lifeblood of the North American industry. It has afforded Americans the opportunity to buy reasonably priced vehicles for years. But, the margins are thin in the auto industry, and fluctuations in price caused by tariffs drive costs to consumers, erode profitability and reinvestment, and threaten the survivability of the North American industry itself.

While tariffs significantly impact the North American auto industry as a whole, they present unique challenges for the EV sector. First, any disruption to investment in North America's EV transition directly affects U.S. OEMs' ability to advance electrification and compete with their Chinese counterparts. Over the past year, the outlook for the North American EV sector has declined, leading many OEMs to postpone, halt, or even cancel EV programs and investments—evident in Ford's and GM's revised battery manufacturing plans. When these OEMs grapple with

tariffs and potential global supply chain disruptions, the burden on North America's EV sector only intensifies.

Second, it was not simply the introduction of President Trump's recent tariffs that sent the industry into a frenzy this month; it was the speed in which they were announced and took effect that caused the greatest concern. When President Trump first introduced tariffs to the World in March 2018 (the so-called "301 China Tariffs"), it came after a lengthy investigation by the U.S. Trade Representative, which was focused on conduct by the Chinese that the Administration found hurtful to the U.S. (*e.g.,* forced technology transfers, trade imbalance, etc.). In fact, the Administration's case for tariffs was arguably connected to the U.S. economy and the opportunity to right-size its trading relationship with China. And, while it was painful for the auto industry to absorb, it did so over time and quietly passed those costs on to consumers in direct and indirect ways. The Trump 2.0 tariffs, however, are fundamentally different. Instead of following the structured process required by Section 301 or Section 232 (steel and aluminum tariffs), President Trump has invoked emergency powers under a little-known law to drive policy changes on immigration and fentanyl imports. This approach allows him to impose tariffs at will, without the procedural hurdles of traditional trade policy. For example, the Administration threatened Colombia with tariffs because it would not accept a planeload of deported migrants. Just in the last week, President Trump has signaled that he will use reciprocal tariffs on any trading partners that he deems to be acting unfairly to the U.S. interests, as defined by the Administration. In other words, it is clear that the Administration intends to sidestep the traditional norms of implementing tariffs and is even willing to ignore standing treaties (as he did with Canada, Mexico, and the USMCA) to negotiate policy objectives important to the President. Even President Trump's most recent move to expand tariffs on all Chinese goods by adding 10% to existing tariffs and reestablish a firm 25% tariffs on all steel and aluminum imports from all countries, without exception, was seemingly done outside of the traditional norms, even though it is legally based on investigations conducted during his first administration. It is this unpredictability that has disrupted the North American auto industry more than anything. Given that automotive supply chains are planned three to five years in advance, sudden and arbitrary tariff impositions create uncertainty and instability. By sidestepping conventional trade norms and disregarding standing treaties—such as those with Canada and Mexico under the USMCA—the administration's approach to trade policy places an even heavier burden on an industry already navigating complex global supply chains.

Third, many of the countries targeted by President Trump's new tariffs supply critical components for North America's EV sector. The threat of tariffs on Asia in particular, coupled with Congress' intent to reduce reliance on Chinese supply chains, weigh more severely on the development of affordable EVs in the United States. U.S. automakers still depend on Asian suppliers for affordable, high-quality components. Imposing additional tariffs on EV batteries, for

instance—already subject to a 25% duty—would certainly make it even harder for manufacturers to scale domestic production. And, while investment in the U.S. for such components is seriously needed and preferred, rescinding President Biden's EV initiatives makes this a tall order.

The EV Outlook This Year: Washington's Point Of View

It is clear that President Trump's America First policy has left the EV transition hanging on a thread. Proponents of EVs certainly understood that candidate Trump was not in favor of EV government incentives, like those provided by the IRA and Bi-Partisan Infrastructure Bill, and candidate Trump's mantra, "Drill baby drill," was heard by those that wanted to see the ICE sector maintain its dominance in North America. Now there is tangible proof that those campaign statements may become a reality sooner than some expected, especially since President Trump seemingly has control of both chambers of Congress. The Administration's energy policies, combined with tariffs and other trade measures driven by non-economic priorities, have put the North American automotive industry—especially the EV sector—on track for a turbulent 2025.

Nonetheless, it is time for cooler heads to prevail and, while it is certainly important to watch this escalation in tariffs play out in the short term, it should not cause proponents of EVs to take their eyes off the future. To do so may only further erode the U.S.'s position of automotive engineering excellence in the world. And, with the exception of the China tariffs (that were initiated by President Trump in 2018 and increased by former President Biden in 2024, and then increased by President Trump in February 2025), President Trump's threats of tariffs could disappear as quickly as they were announced on Truth Social, as they did with Canada and Mexico.

Perhaps President Trump's reshoring goals are the one bright light in an otherwise aggressive international trade policy? Candidate Trump even seemed willing to welcome BYD to U.S. shores if it built a manufacturing facility in the U.S. Hopefully, programs like the Commerce Department's Select USA survives the current budget cuts and President Trump is sincere about attracting international suppliers to the U.S. who can support U.S. OEMs without the disturbance of tariffs. The President, however, has a Congress that does not seem to be in lock step with this thinking (*e.g.,* Tik-Tok). One thing is for sure, while the previous four years were lacking in meaningful trade engagements and controversies, the next four will be very different. And, while President Trump may shake-up trading norms, he has clearly signaled he is a "transactional" President and, where a deal can be made, President Trump has been known to recalibrate his opinions.

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The Department of Commerce Released Final Rules to Protect Critical Connected Car Infrastructure

Recognizing the unique national security concerns related to connected vehicles and production from China and Russia, the Department of Commerce's Bureau of Industry and Security (BIS) issued a final rule to address those national security risks. The new rule focuses on information and communications technology and services (ICTS) integral to these vehicles, particularly those designed, developed, manufactured, or supplied by entities connected to China or Russia. Coupled with recent actions with the ICTS industry, the BIS Rule represents another effort by the federal government to remove potentially dangerous equipment and services from ICTS industries.

The BIS rule prohibits certain transactions and mandates declarations of conformity from connected vehicle manufacturers and hardware importers, requiring due diligence in their supply chains. The BIS rule also establishes processes for advisory opinions, recordkeeping, and enforcement, all aiming to mitigate potential vulnerabilities.

To minimize the impact on industry, the BIS rule emphasizes a risk-based approach, cybersecurity standards, and coordination with other agencies to protect U.S. national security. BIS conducted extensive stakeholder meetings and considered public comments in finalizing the rule.

The top three cybersecurity concerns include:

Data Exfiltration: The integration of compromised technology into a vehicle could lead to the exfiltration of sensitive data belonging to U.S. persons and critical infrastructure data to foreign adversaries. This data could include personal information, location data, and other sensitive information collected by connected vehicles. To wit, Chinese law compels compliance with government requests, especially for collected data.

Remote Manipulation: Foreign adversaries could exploit vulnerabilities in connected vehicles to gain remote access to and manipulate connected vehicles. This could involve injecting malicious code into a vehicle's operational systems, compromising the reliability of the vehicle, or even taking control of critical functions such as steering and braking.

Supply Chain Vulnerabilities: BIS raised concerns that, at the behest of foreign governments, foreign suppliers may create backdoors and security vulnerabilities in products sold into the U.S. Specifically, involving Chinese and Russian suppliers in the U.S. supply chain subjects that supply chain to the demands and limitations of the Chinese and Russian governments. Russia has a pattern of utilizing cyber operations to achieve its geopolitical objectives through backdoors and security vulnerabilities in products sold

abroad. The BIS rule therefore recognizes that foreign adversaries could exploit these vulnerabilities in the connected vehicle supply chain to introduce security risks.

To address these concerns, the new BIS rules:

Prohibit certain transactions involving hardware and covered software designed, developed, manufactured, or supplied by individuals owned by, controlled by, or subject to the jurisdiction or direction of China and Russia.

Require Declarations of Conformity. Requires hardware importers and connected vehicle manufacturers to submit Declarations of Conformity to certify compliance with the regulation, including completion of due diligence requirements. This enhances supply chain due diligence with a specific national security focus. This also creates an incentive for industry to invest in supply chain review and assessment and to accelerate necessary changes to ensure compliance.

Offer general and specific authorizations. A connected vehicle manufacturer or hardware importer that is a subsidiary, joint venture, affiliate, or other entity subject to the ownership, control, jurisdiction, or direction of China or Russia would be ineligible for general authorizations and is required to apply for a specific authorization before engaging in an otherwise prohibited transaction.

Require supply chain visibility. Importers need to conduct due diligence on supply chain components. Component parts that do not contribute to the communication functions are not subject to the rule and would not have due diligence requirements.

Whether and when this rule actually becomes final is currently uncertain. Recent executive orders issued by the Trump administration raise the possibility that the BIS Rule will not become final as originally planned. While manufacturers were not required to come into compliance with the BIS Rule until 2027, an Executive Order issued on January 20, 2025, directed all executive departments to pause the effective date of recently adopted rules for sixty days.

These rules are not the only ones addressing the underlying issue of security in our infrastructure. As noted above, the federal government has taken several recent actions to slow or outright prohibit the integration of new Chinese and Russian equipment and services into ICTS platforms. Currently, the Federal Communications Commission (FCC) is managing a program to reimburse telecommunications service providers for their costs associating with removing equipment manufactured by Huawei Technologies Company or ZTE Corporation. The FCC also implemented rules to prevent certain manufacturers that have found to present national security risks (Huawei, ZTE, Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, Dahua Technology Company) from obtaining the necessary equipment authorizations

to import and market their equipment into the United States. Finally, the FCC recently implemented a voluntary cybersecurity IoT labeling program for consumer products. Products that meet stringent industry cybersecurity standards will be permitted to promote compliance with the "U.S. Cyber Trust Mark".

Greg Ewing | Member Partner
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In Case You Missed It

It seems that the vast majority of media and print coverage regarding the subject of EVs focuses on the manufacturing side, *e.g*. sales growth or lack thereof, new products and technologies, Chinese competition, etc. Far less coverage involves the challenges facing suppliers, in many cases, struggling to navigate the perilous transition from ICE to BEV in an unprecedented and uncertain environment. In this month's issue, we focus on the confluence of challenges facing suppliers in the EV supply chain.

(1) Suppliers Face Treacherous Environment in 2025 Amid EV Uncertainty, Looming Tariffs

In this article, the author suggests that the confluence of the new administration's uncertain trade policy and last second changes to automakers electrification plans create, in the opinion of industry expert Mike Robinet of S&P Global Mobility, a "…very treacherous environment right now for the supply base." Robinet states further that, "The level of capital risk that's been embedded into our industry with respect to shifting emissions regulations and tariffs is incredible."

(2) Tariffs Would Lead to High Costs, Layoffs and Supplier Bankruptcies

In an article appearing in the January 24th edition of *Automotive News*, the author addresses the confluence of challenges facing all suppliers; but particularly those who have pivoted to the EV supply chain. The author notes that Tariffs will increase prices and slow demand compounding the problem for EV supply chain participants who already are suffering from investing significant capital into new or refurbished factories and who aren't getting the returns anticipated due to lesser demand and changes in production schedules.

(3) CEO of Major Supplier Tells Automakers it Won't Eat Tariff Costs

In an article appearing in the January 28th edition of *Crain's Detroit Business*, the author describes how one major supplier is addressing the impact of prospective tariffs on foreign manufactured components. In sum, it has placed its customers on notice that it

will not absorb the tariff costs and expects that such costs will be passed through to the respective customers.

(4) A Closer Look at BYD's Accounting

In an article appearing in Bloomberg's *Hyperdrive* entitled, "A Closer Look at BYD's Accounting," the authors assert that "BYD's reliance on financing from working capital has masked surging debt levels at the Chinese electric vehicle giant...and that BYD appears addicted to supply chain financing." They suggest that this type of financing is in effect, a type of "hidden debt" making it difficult for investors to truly understand BYD's actual financial condition. The author's state that, based on "Bloomberg compiled data," BYD took an average of 275 days to pay its suppliers in 2023.

One would think that implementing a policy of deferring supplier payments by over 9 months would place an enormous strain on its supply base. In my view, "stretching payables in times of distress" is a legitimate tactic to deal with cash flow issues; but is not proper to treat loyal suppliers as your bank.

(5) China's Firms are Bleeding Cash- and Vulnerable to Trump's Trade War

Finally, in an article appearing in the February 6th edition of the *Wall Street Journal*, the author describes the deteriorating financial condition of many of companies, in particular, companies in key industries (e.g. automotive) where the Chinese government provided subsidies and other incentives', resulting in fierce competition and price wars. Now that demand has stalled, these companies are struggling. The author cites Tianqi Lithium, which sells materials used to make batteries for electric vehicles, as an example. "Tianqi warned investors that it was set to report a net loss equivalent to roughly $1 billion for 2024 after prices for its products fell. The Sichuan province-based company said in a filing that it would stop all work on a plant in Australia, a project under way since 2017, because it was no longer economically viable. When asked for comment, Tianqi referred the Journal to its official announcements."

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To learn more about our EV practice, visit our website at https://www.dickinson-wright.com/practice-areas/electric-vehicles?tab=0.

All views presented in this newsletter are those of the authors and do not necessarily reflect the views of Dickinson Wright.

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