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What's Been Happening

1 — U.S. and China Trade Fire in Tit-for-Tat Tariff War — 1

[In One Sentence]

- On April 2, President Trump announced tariffs on over 100 U.S. trading partners, including a 34% hike on Chinese goods, prompting China to respond with a series of retaliatory measures on April 4.
- On April 9, President Trump paused his “reciprocal” tariffs for 90 days for countries that hadn't retaliated against the U.S., while simultaneously increasing tariff rates on Chinese goods effectively to 145%.
- In response to Trump’s decision to raise tariffs on Chinese goods, China raised tariffs on U.S. imports to 125% on April 11.
- During a WTO meeting, China, along with twenty other delegations, spoke out against Trump’s tariffs, claiming the measures violate WTO principles and will have a significantly negative economic impact.
- Trump also signed an order officially ending *de minimis* treatment for Chinese goods, following a notice from the Commerce Department indicating that the U.S. was ready to begin collecting tariffs on those low value imports.

[Mark the Essentials]

- The European Commission announced it would suspend planned trade retaliation on €20.9 billion (\$23 billion) worth of U.S. goods for 90 days, aligning with Trump’s tariff pause to allow time for potential negotiations.
- Following Trump’s “reciprocal” tariffs, U.S. Trade Representative Jamieson Greer said his office had engaged in talks with dozens of partners such as the EU, Korea, Ecuador, and Mexico, while countries like Argentina, Vietnam, and Israel had indicated they would reduce their tariffs and non-tariff barriers.
- After announcing a 90-day pause on the new tariff policy, Trump granted exemptions for smartphones, laptops, and other electronic products imported from China, but warned that these exemptions will be short-lived.
- White House Council of Economic Advisers Chairman Stephen Miran defended President Trump’s “reciprocal” tariffs as a way for the U.S. to recover the costs of supplying “global public goods,” arguing that countries benefiting from the postwar order should see the duties as a form of “burden sharing.”

[Keeping an Eye On...]

- In April 2017, three months into the first Trump administration, Donald Trump and Xi Jinping were nuzzling each other in the ornate backdrop of Mar-a-Lago. There would be another eight months to go before the bottom of the relationship began to sustain its first cracks, with the administration's labeling of China as a "revisionist power" in its National Security Strategy. This time around, three months into Trump's second term, Donald Trump and Xi Jinping are barely on speaking terms with the other. China's strategy thus far to Trump's tariff assault has been to retaliate immediately and assuredly but in measured proportion. In addition to tariffs, China's countermeasures imposed have ranged widely. They include controls on U.S. companies, including their placement in various proscribed lists; corporate probes, particularly on the anti-trust front; slowwalking and/or opposing corporate dealmaking, be it with regard to Tiktok or Hutchinson Ports; slowdown or suspension of major U.S. goods and services purchases, including Boeing aircraft and Hollywood movies; rare earth export curbs; travel to U.S. and study warnings to its own citizens; and a lawsuit challenging U.S. action at the WTO. Additionally, state media have been pressed into service to vocally champion the Party and Government's standpoint. That standpoint comprises four arguments. First, while Trump's indiscriminate tariffs will have an impact on China, the "sky will not fall." Second, the Chinese economy is stable and improving and the country has the confidence to deal with the impact of the U.S.' tariffs. Third, the Party and Government have a plan with regard to fighting the trade war and riding out its ill-effects. The raising of the government's budget deficit target as well as targeted fiscal support measures for enterprises and consumers, as laid out at March's Two Sessions meeting, is presented as a concrete manifestation of this planning. And finally, the new round of U.S. containment and suppression via the trade war will in fact turn out to be a motivational device that will accelerate the construction of a new development paradigm based on the expansion of domestic demand as well as the promotion of technology-enabled breakthroughs on the supply side of the economy. As such, while the door to negotiations is certainly not closed with the U.S., nothing has been left to chance by the leadership.

Overall, there is much to recommend in China's strategy and talking points. The U.S.' vaunted leverage in its trade war with Beijing has indeed been short-circuited by Beijing's strategy as well as, more broadly, by the market's loss of confidence in the White House's capacity for competent economic and trade policy decision-making. Call it a 'hillbilly premium' being charged by financial markets on U.S. government assets. That said, the longer the game of chicken between the U.S. and China drags out, the greater is the likelihood of damage to China's economic interests. From delisting of Chinese firms on Wall Street including those using the variable interest entity (VIE) structure, to harsher export controls and widened outbound investment restrictions, to dollar-linked property blocking sanctions on Chinese firms and secondary sanctions on Chinese banks, to termination of China's MFN status and the bilateral income tax convention, there is much pain yet that can be heaped on Chinese interests. Upping the ante will also place subsequent U.S.-China trade negotiations on a razor's edge, with high-stakes failure leading to an almost across-the-board decoupling of the two economies. And even if the bilateral negotiations proceed on an even keel and produce useful outcomes, it is by no means clear that many of the tariff and non-tariff countermeasures will come off. The Trump 1.0 experience suggests, rather, that most will continue to stick.

Given this likely state of play, it is just as much in China's interest, then, that the two sides – and their leaders – get to the negotiating table sooner rather than later, and certainly before the full menu of sanctions and coercive measures are imposed. And for all of his bravado, disruptiveness and dishonesty, it is worth noting that Donald Trump is probably the least anti-Chinese in his orientation among members of his own administration. Trump is not anti-China nor pro-China. As a lifelong dealmaker, he would like to come away with a handsome market access agreement with Beijing, which cannot be said for most other members of his administration who would prefer to substantially decouple America's economic, trade and technology relationship from China. And so, given that it is in Beijing's own national modernization interest to have the 'least worst' economic relationship with America - if only to foster a somewhat more stable external environment, it is as incumbent on China, as it is on the U.S., to ensure that senior officials can sit across the table sooner rather than later and facilitate a meeting thereafter of their two presidents.

[Expanded Reading]

- [China files new complaint to WTO over Trump tariffs](#), Reuters, April 9, 2025.
- [Hong Kong will stop shipping small packages to the U.S. after Trump drops 'de minimis' exemption that let Shein and Temu sell to Americans](#), Fortune, April 16, 2025.
- [EU pauses tariff retaliation for 90 days to match Trump move, holding out hope for talks](#), AP News, April 10, 2025.
- [Nearly 50 countries want tariff deals, Trump trade chief Greer says](#), Reuters, April 7, 2025.
- [Trump warns exemptions on smartphones, electronics will be short-lived, promises future tariffs](#), The Guardian, April 13, 2025.

2 — Trump's Self-Claimed Tariff Power under Domestic Legal Scrutiny — 2

[In One Sentence]

- California Governor Gavin Newsom announced on April 16 that his state is suing President Trump over tariffs that could cost the state billions.
- The U.S. Chamber of Commerce may sue to challenge Trump's global tariffs, acting as a shield for businesses fearing direct confrontation with the president.
- A successful challenge by the Chamber could set a precedent that limits the executive branch's authority over trade policy, while also being seen by businesses as a critical step toward restoring predictable and stable international trade practices.
- The New Civil Liberties Alliance has filed a lawsuit asserting that the Trump administration's imposition of 20 percent tariffs on China under the IEEPA is unlawful and unconstitutional.
- A Florida company, Simplified, is suing to challenge President Trump's import tariffs, arguing that his use of emergency powers under IEEPA exceeds presidential authority.
- The cases could result in conflicting court rulings and likely require resolution by the Supreme Court, while China and Canada have also challenged the tariffs at the WTO.

[Mark the Essentials]

- Governor Newsom argued that the president lacks the authority to unilaterally impose tariffs utilizing IEEPA authority against Mexico, Canada, and China or create an across-the-board 10% tariff.
- Montana Blackfoot tribe members are suing the administration over its IEEPA-based tariffs, claiming that unauthorized implementation and improper procedures have violated their tribal commercial rights, and have sought an injunction to exempt them from the tariffs based on these customary trading rights.
- Legal experts have clashed over Trump's unprecedented IEEPA tariff use, with opponents citing constitutional overreach and supporters referencing a Nixon-era precedent, though Supreme Court review could limit this authority.
- The Koch-backed New Civil Liberties Alliance assailed Trump's unprecedented use of emergency powers to impose China tariffs as unconstitutional, signaling mounting mainstream conservative resistance to his trade policies.
- The Trump administration has defended its reciprocal tariffs at the WTO, claiming they are necessary to protect the U.S.' "essential security interests".

[Keeping an Eye On...]

- With a conservative majority on the bench, Republicans have won important rulings against the administrative state over the past decade or so. In *West Virginia v. EPA* (2022), the Supreme Court laid out a 'major questions doctrine', which held that executive branch agencies were not at liberty to issue regulations of vast economic and political significance without clear congressional authorization. Earlier, in *Utility Air Regulatory Group v. EPA* (2014), the court had similarly expressed its skepticism of newly discovered grants of executive authority discovered in decades-old laws, noting that "when an (executive branch) agency claims to discover in a long-extant statute an unheralded power to regulate a significant portion of the American economy ... we typically greet its announcement with a measure of skepticism." In *Loper Bright v. Raimondo* (2024), the court held that it was the duty of the courts to independently assess the best reading of a statute, rather than reflexively defer to the executive branch's (possibly vast) interpretation, which had been the case since the mid-1980s.

What an irony, then, that all three rulings are being pressed into service against a Republican administration (and mostly by conservative groups, no less) to challenge the basis of President Trump's vast reciprocal tariffs - premised as the tariffs are on the bilateral trade deficits being an "unusual and extraordinary threat" that rises to being a "national emergency". So, do the reciprocal tariffs truly qualify as a national emergency, given that American presidents since the enactment of the *National Emergencies Act* (NEA) in 1976 and the *International Emergency Economic Powers Act* (IEEPA) of 1977 have never utilized these authorities to impose tariffs (Trump briefly contemplated using these authorities against Mexico in May 2019 to stanch illegal migration but ultimately stepped back)? Or does this tariff action constitute the sudden discovery "in a long-extant statute an unheralded power to regulate a significant portion of the American economy"? Likewise, should courts defer to the administration's invocation and interpretation of the IEEPA to levy broad-based tariffs under the "War and National Defense" title of the U.S. Code, including against allies and partners, given that Congress has already delegated explicit authority to impose national security tariffs but under the "Customs Duties" title of the U.S. Code? Or does this tariff action constitute an unprecedented and illegal executive branch power grab that seeks to unconstitutionally regulate commerce with foreign nations (a legislative branch prerogative) and violate the basic principle of

no taxation without representation? About the only strong argument that the administration can marshal is that Congress enjoys the authority to override a presidential declaration of a national emergency with a joint resolution of disapproval, and has chosen not to do so, as yet.

If the Trump administration is skating on thin legal ice at home, it is veritably drowning abroad. In Geneva, at a WTO Council for Trade in Goods meeting, the administration argued that the atrophy of domestic manufacturing capacity as a result of the U.S.' goods trade deficits had compromised defense-preparedness and amounts to a national security threat. The reciprocal tariffs are a measure the U.S. considers necessary, thus, to protect its "essential security interests." This invocation of GATT's Article XXI national security exception will not fly. To pass legal muster, the article's invocation must be "taken in time of war or other emergency in international relations" or "in pursuance of obligations under the UN Charter for the maintenance of international peace and security." Neither provision applies to the reciprocal tariffs. And indeed, in an earlier Section 232 steel tariffs case where the Trump and Biden administrations had sought to apply the exception using the same defense preparedness rationale, a WTO panel ruled that excess capacity in the steel industry – a genuine concern – might be a "matter of international attention" but was hardly tantamount to being "an emergency in international relations." Trump's reciprocal tariffs against allies and adversaries alike doesn't even qualify as a "matter of international attention" and ducking under the WTO's Article XXI security exception will be found to be utterly groundless. Not that such a ruling would matter to Mr. Trump. But it would weigh on the U.S.' international legal record – that is, if the U.S. Supreme Court doesn't kill off the NEA and IEEPA tariff justification first.

[Expanded Reading]

- [California is first state to sue Trump on Tariffs](#), *POLITICO*, April 16, 2025
- [Trump Sued Over 'Liberation Day' Tariffs](#), *The Hill*, April 15, 2025
- [Trump Inner Circle Warned Of Tariff Consequences](#), *CBS News*, April 14, 2025
- [Markets Worry About Finding An Exit From Trump's Trade Fight](#), *The New York Times*, April 11, 2025
- [U.S. Businesses Sue To Block Trump Tariffs, Say Trade Deficits Are Not An Emergency](#), *CNBC*, April 14, 2025
- [Trump Administration Sued Over Tariffs In US Court Of International Trade](#), *Reuters*, April 14, 2025
- [Small Businesses Sue Trump Administration Over Authority To Impose Tariffs](#), *CNN*, April 14, 2025

On the Hill



[Legislative Developments]

- Sens. Cassidy (R-LA) and Graham (R-SC) have released an updated Foreign Pollution Fee Act of 2025, which proposes tariffs on pollution-intensive imports entering the U.S.
- Sens. Ron Wyden (D-OR) and Richard Neal (D-MA) introduced privileged resolutions to end Trump's national emergency declaration imposing broad-based tariffs, though the effort faces Republican procedural blocks and a presidential veto.
- The White House has threatened to veto the bipartisan *Trade Review Act of 2025*, which requires congressional oversight of tariff changes, with six Republican senators backing the bill and Rep. Don Bacon (NE) planning a companion House bill despite procedural hurdles.
- The Senate passed a resolution (51-48) to end Trump's Canadian tariffs with bipartisan support, though House Republicans have vowed to block the measure as they have done with previous similar resolutions.

- The House has advanced legislation to establish a DHS working group and ban battery procurement from CCP-linked companies, despite prior Senate inaction.

[Hearings and Statements]

- Democratic lawmakers, including Sen. Ron Wyden (D-OR) and two House Ways & Means members, questioned whether President Trump engaged in “market manipulation” by abruptly pausing tariffs on dozens of countries for 90 days, triggering a stock market rally after days of sharp losses.
- Republicans on the Senate Finance Committee have pressed U.S. Trade Representative Jamieson Greer for assurances that the Trump administration aims to pursue new trade deals with countries affected by the “reciprocal” tariff policy, rather than making the tariffs permanent.

[Expanded Reading]

- [Cassidy, Graham Introduce Latest Version of Trade Manufacturing Policy to Hold China Accountable](#), Office of Sen. Bill Cassidy (R-LA), April 8, 2025
- [Trump threatens to veto Senate bill limiting his tariff power](#), *The Hill*, April 7, 2025
- [Grassley, Cantwell Introduce Bill to Restore Congress’ Constitutional Role in Trade](#), Office of Sen. Chuck Grassley (R-Iowa), April 3, 2025
- [Senate passes measure to revoke new Canada tariffs as four Republicans break with Trump](#), *NBC*, April 2, 2025
- [Democrats go all in on unproven insider trading allegations as they target Trump’s tariffs](#), *Politico*, April 11, 2025
- [Senate Republicans nudge Trump’s trade chief for tariff end game](#), *Politico*, April 8, 2025