

September 5, 2025

## What's Been Happening

## 1 — Amid IEEPA Ruling, Trump Trade Negotiations Sail into Choppy Waters —

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Commerce Secretary Howard Lutnick speaks during a cabinet meeting with U.S. President Donald Trump in the Cabinet Room of the White House on August 26, 2025 in Washington, DC. (Photo by Chip Somodevilla/Getty Images)

**[In One Sentence]**

- The U.S. Court of Appeals for the Federal Circuit on August 29 ruled 7–4 that President Trump unlawfully exceeded his authority under the *International Emergency Economic Powers Act* (IEEPA) by imposing sweeping tariffs, striking down the measures while allowing them to remain in place until mid-October pending a potential Supreme Court appeal.
- As uncertainty clouds over the future of Trump’s reciprocal and trafficking tariffs, the additional 25 % levies on India went into effect on August 27 as punishment for buying Russian oil, increasing the total tariff rate to 50%.

- With India's relationship with the U.S. souring, Indian Prime Minister Narendra Modi joined Russian President Vladimir Putin and Chinese President Xi Jinping at the Shanghai Cooperation Organization (SCO) Summit in Tianjin, China.
- On August 21, the U.S. and EU issued a joint statement memorializing their trade agreement, confirming that the U.S. will impose 15% tariffs on most European goods, including cars, semiconductors, pharmaceuticals and lumber.
- On August 27, the EU formally proposed tariff cuts to implement its joint framework with the U.S. that included removing industrial tariffs and extending an agreement for zero tariffs on U.S. lobster.
- Despite the agreement, on September 1, Trump threatened to upend it by threatening fresh tariffs in response to the EU's digital services taxes and technology regulations.
- South Korean President Lee Jae Myung met Trump at the White House on August 25, with both sides inking agreements on shipbuilding, nuclear energy, aerospace, gas, and critical minerals.
- Senior Chinese trade negotiator Li Chenggang wrapped up a 3-day visit to Washington on August 29, meeting senior U.S. officials and calling for an "equal dialogue," as both sides continued discussions during the 90-day tariff pause that is set to expire on November 10, 2025.
- On August 23, China's ambassador to the U.S., Xie Feng rejected allegations that Chinese purchase of U.S. farmland is a national security concern, calling the charges "completely unfounded."
- In a letter to President Trump on August 19, U.S. soybean farmers urged him to conclude a trade deal with China soon, saying "farmers cannot survive a prolonged trade dispute with our largest customer."

### [Mark the Essentials]

- Trump criticized the Appeals Court ruling, saying "all tariffs are still in effect" and added that if the ruling is implemented, it would "literally destroy the United States of America."
- The majority of Trump's tariffs have been slapped under the IEEPA including levies on China, Canada, and Mexico and "reciprocal tariffs" on the rest of the world. Without the use of IEEPA, the president's power to impose emergency tariffs would be curtailed. While the administration could still go to Congress to have them enacted, it cannot use 'foreign' and 'security' justifications.
- On September 1, Trump intensified his criticism of Washington's trade relationship with New Delhi, describing it as a "one-sided disaster." He also claimed India has now "offered to cut their Tariffs to nothing, but it's getting late". Trump's trade advisor Peter Navarro also targeted India for buying Russian oil, accusing it of "profiteering" and terming the war in Ukraine as "Modi's war."
- Indian exporters fear job losses due to the impact of 50% U.S. tariffs as the Modi government plans to support targeted industries and usher in a new wave of domestic reforms.
- In response to Trump's threat of imposing restrictions on U.S. advanced technology and chips, the EU asserted that it has the "sovereign right" to regulate its "economic activities."
- In his meeting with South Korean President Lee, President Trump insisted that Seoul will stick to the deal they signed with the U.S. that included a 15% tariff rate on Korean imports and investment of \$350 billion in the U.S., including \$150 billion in the shipbuilding industry.
- Trump focused his attention on South Korea's shipbuilding capability, saying the U.S. would be "buying ships from South Korea and are also "going to have them make ships here with our people." Seoul has

played up the shipbuilding package, termed “Make American Shipbuilding Great Again,” which features promises of building U.S. shipyards, training personnel, and maintaining U.S. Navy ships.

### [Keeping an Eye On...]

- *Mayday! Mayday! Mayday!* The golden tariff vessel of Donald Trump is quickly taking on legal water. In late-April, U.S. Trade Representative Jamison Greer had told the U.S. Court of International Trade (CIT) that voiding President Trump’s Liberation Day reciprocal and trafficking tariffs would amount to a “foreign policy disaster scenario”. Greer had argued that the reciprocal tariffs, levied as they were after a presidential declaration of a balance-of-payments emergency under the *National Emergencies Act* (NEA), was a non-justiciable political question that needed to be resolved by the political branches and not a judicial organ. Besides, the tariffs related to foreign and security policy issues and were no mere trade policy matter — essentially, CIT needed to lay off.

The CIT swatted the argument away in late-May, ruling that the tariffs were in fact a trade and commercial policy measure and hence needed to be dealt with authorities that fell within the “Customs Duties” title of the U.S. Code, including if need be national security authorities such as Section 232 of the *Trade Expansion Act* of 1962. Commandeering the president’s emergency authority under the “War and National Defense” title of the U.S. Code to remedy a balance of payments contingency was an unlawful assertion of executive power that exceeded the authority granted to the President by Congress.

Undeterred, in late-August, U.S. Treasury Secretary Bessent and Commerce Secretary Lutnick made more-or-less the same last-ditch argument before the Court of Appeals for the Federal Circuit. The president enjoyed emergency authority to impose tariffs under the *International Emergency Economic Powers Act* (IEEPA), the tariffs had prised significant concessions from trade partners, a ruling invalidating the tariffs would undo months of negotiations and would amount to a huge embarrassment internationally with “devastating and dire consequences” for U.S. foreign policy.

Late last week, the federal appeals court ruled that it was just as unconvinced of the administration’s claims as the CIT had been in late-May. Deliberating on a much narrower question, whether Trump’s reciprocal and trafficking tariffs are authorized by the IEEPA, the court recounted many of the same points made earlier this May. The history of the enactment of the IEEPA suggests that the term “regulate ... importation” does not include the power to impose tariffs. While enacting the IEEPA, Congress had explicitly restricted the President’s authority to impose tariffs in response to balance-of-payments deficits to a specific, narrower, time-limited non-emergency statute (Section 122 of the Trade Act of 1974). The core power to impose taxes such as tariffs is vested exclusively in the legislative branch and absent a valid delegation by Congress, the President has no authority to impose taxes. Besides, a veiled delegation of power “of [such] vast economic and political significance” would run afoul of the major questions doctrine. Furthermore, even if the executive branch’s argument that the President enjoys the power to regulate imports during a time of war or a national emergency is accepted, the administration’s tariffs fail this test since the tariffs are unbounded in scope, amount, and duration, unlike President Nixon’s tariffs in the *Yoshida II* case. Thus, the tariffs exceeded the authority delegated to the President by the IEEPA’s text and were unlawful.

So, what next for Trump's sinking ship? No doubt the administration will appeal before the October 14th deadline and once again argue certain foreign policy doom if the tariffs are overruled. But whether the argument will cut ice with a Supreme Court that has ceased to defer blindly to executive authority and the administrative state over the past decade remains to be seen. Much will ride on the court's final opinion, especially for Brazil, China and India, given that their current IEEPA-based tariffs far exceed the generalized 15% ceiling that Trump could levy using non-IEEPA means to address balance-of-payments contingencies.

### [Expanded Reading]

- [Smiles and Clapsed Hands as Xi, Putin and Modi Try to Signal Unity](#), *NYT*, September 1, 2025
- [China's Senior Trade Negotiator Calls for 'equal Dialogue' During US Visit](#), *SCMP*, August 30, 2025
- [Appeals Court Rejects Trump's Global Tariffs](#), *The Wall Street Journal*, August 29, 2025
- [Trump Makes Good on Threat to Impose 50% Tariffs on India Imports](#), *CNN*, August 27, 2025
- [Indian Exporters Say 50% US Tariff 'Impossible' to Cope With](#), *Nikkei Asia*, August 26, 2025
- [Trump Vows Retaliation Against Countries with Digital Rules Targeting US Tech](#), *ABC News*, August 26, 2025
- [Exclusive: Trump Administration Weighs Sanctions on Officials Implementing EU Tech Law, Sources Say](#), *Reuters*, August 26, 2025
- [EU Defends Digital Taxes After Trump Calls Them Unfair on US](#), *Bloomberg*, August 26, 2025
- [South Korea Bets Big on Reviving Troubled US Shipbuilding to Woo Trump](#), *Reuters*, August 26, 2025
- [China Says 'Rampant' US Protectionism Threatens Agricultural Ties](#), *Reuters*, August 24, 2025
- [U.S. And E.U. Trade Deal Caps Tariffs on Exports at 15%](#), *NBC News*, August 21, 2025
- [US Soybean Farmers Urge Trump to Make Purchase Deal with China](#), *Reuters*, August 19, 2025

## 2 — Eyeing AI Competition, U.S. and China Ramp-Up Chip Efforts — 2

### [In One Sentence]

- Nvidia CEO Jensen Huang said on August 27 that there is a “real possibility” the company could bring its advanced Blackwell AI chips to China if U.S. export control rules allow, while urging Washington to keep markets open for American chipmakers.
- The Commerce Department's Bureau of Industry and Security (BIS) announced on August 29 that it would revoke a Biden-era authorization that allows Intel, Samsung, and SK Hynix to export some semiconductor manufacturing equipment to China without a license, requiring them to seek new licenses for continued operations in China but barring approvals for expanding or upgrading local chip capacity.
- The U.S. also revoked TSMC's similar authorization on September 2 that allows the company to freely ship essential gear to its main Chinese chip making base.
- China's chipmakers are racing to cut reliance on Nvidia by tripling AI chip output in 2026, with Huawei preparing one dedicated plant by year end and two more in 2026 whose combined capacity could exceed similar SMIC lines, while SMIC plans to double 7 nanometer capacity next year amid Beijing's push for domestic processors rivaling Nvidia's H20.
- Chinese chipmakers and AI developers are rolling out homegrown alternatives backed by Beijing's push for self-reliance, with products including Alibaba's new, more versatile Nvidia-compatible inference chip, MetaX's H20 substitute, and Cambricon's Siyuan 590.

- The U.S. government has taken a 10% stake in Intel by converting its \$8.9 billion CHIPS Act grants and other funds into equity, a move President Trump hailed as a “great deal” to strengthen domestic chip making while Intel pledged continued focus on U.S.-based advanced semiconductor production.

### [Mark the Essentials]

- Nvidia’s report on August 27 showed strong revenue growth but also stated that the company was unable to ship any H20 chip sales to China since the company is still waiting on the details of the 15% revenue share deal from the U.S. government.
- House Select China Committee Chair John Moolenaar (R-MI) urged the Commerce Department to base export controls on China’s chip making capabilities rather than U.S. technology levels, proposing a “rolling technical threshold” and compute caps to keep China’s aggregate AI capacity below 10% of America’s while maintaining Chinese dependence on U.S. hardware and cloud access.
- White House AI advisers David Sacks and Sriram Krishnan said China’s reported push to triple AI chip production underscores the urgency of carrying out Trump’s AI action plan, which calls for promoting the U.S. “AI stack” globally to keep allies from turning to Chinese technology.

### [Keeping an Eye On...]

- What would Usain Bolt do? Imagine Bolt was paired up to run the race of his life with a fast-rising and formidable opponent, but one of modest means. Would he: (a) have his opponent kneecapped so that he could “maintain as large a lead as possible” from the get-go? Would he (b) provide his opponent with a hand-me-down pair of ageing but still blingy athletic spikes and then outrace him handily on the track? Or would he (c) provide his opponent with a spanking new pair of the best spikes on the market and then proceed to outrace his opponent just as handily to prove the point that his opponent will never be his match? One suspects Bolt would go with option (c).

Now substitute the United States in the AI chip space for Bolt and China for his fast-rising opponent. During the previous Biden administration, the U.S.’ strategy had essentially been (a). In his most prominent remarks on the topic, ex-National Security Advisor Jake Sullivan had observed that the “sliding scale” approach to maintaining a multi-generational lead in key emerging technologies over China was *passé*. In advanced logic and memory chips, he declared “**we must maintain as large a lead as possible**” given their foundational nature. Sullivan and his Commerce Department acolytes proceeded to throw the export control book at China.

Next, fast forward to the Second Trump Administration, whose approach – whether it be the recent AI executive orders and Action Plan or stray comments on advanced capability chips by cabinet secretaries – seems to be closer to (b). Per this view, U.S. technology leadership is better consolidated by shipping “5<sup>th</sup> or 6<sup>th</sup>” tier technologies to China to keep it “addicted” to the American technology stack. The U.S. needn’t export control China to extinction. **Better rather to keep the tap flowing with advanced, albeit somewhat degraded chips, earn a gush of revenue, hook the Chinese chip ecosystem to American core technology, and disincentivize the buildout commercially of a self-sufficient capability** in core technologies within the Chinese chip ecosystem – no matter what the dictation from their political masters in Beijing might be. Better still, this tap could be temporarily turned off if necessitated by extreme circumstances such as a

Taiwan invasion. In many ways, the administration's strategy is the counterpart of China's rare earths strategy; corner the market, manipulate the price to disincentivize entrants, and implement embargoes on rare occasions to convey a hard-hitting message when necessary.

Now, along comes a refined version of (b). Courtesy of John Moolenaar, the rabidly anti-CCP chairman of the China Select Committee on the Hill — **call it the 'smart yard, smart fence' version**. Per Moolenaar, the role of strategy should be to keep China dependent on U.S. chip hardware while limiting the breakout of China's AI capabilities. This is best done by instituting a 'rolling technical threshold' (RTT) for advanced U.S. AI chip sales to China that is based on the current AI relevant technology available paired with a limitation on China's aggregate computing power. **U.S. export control thresholds, rather than being tied to American chip making capabilities, would be then tied to Chinese chip making capabilities**. The RTT would be set at a threshold to reflect "a marginal improvement over the most advanced chip China can produce domestically at a commercially relevant scale while also limiting China's aggregate computing power to 10% of that of the U.S." Evidently, the technology measuring stick vis-à-vis China that Sullivan had tossed out of the window has been retrieved and is to be put back to use.

But does this domestic debate matter? Certainly not in a good way from the U.S.' perspective, for the obsessive fixation on cutting China down to size will not go unheard in Beijing. The Beltway's China tech warriors should in fact heed the lessons of their own response to China's rare earths coercion. In July, the Pentagon took a 15% stake in a U.S. rare earths producer, MP Materials, and more consequentially, provided a guaranteed price floor above the market price and a 100% off-take agreement for up to a decade for its magnets. With a stable price control mechanism in place, China will not be allowed to manipulate production incentives, which will thereby ensure the build out of strategically adequate domestic rare earths capacity – even at an above-market price. Until the build-up of that domestic production capacity crosses a threshold point, the U.S. government would jaw-jaw with China at the negotiating table to keep the elements and the magnets flowing. In not so many ways, China's buildout of an advanced domestic chip making ecosystem is premised on a similar logic: converse at length with the U.S. government to keep some amount of chips and chip-production equipment flowing while buying time to scale up to a self-sufficient level of advanced chip making. Rather than get "addicted" to lower tier American chips, China could translate that current access instead into a short-term opportunity to stay competitive in the AI race while eschewing the revival of any longer-term dependencies.

In retrospect, the incessant Beltway philosophizing will only end up ensuring the Chinese get their act together quickly and that they are the ones, not the American side, to ultimately throw the technology sliding scale out the window sooner rather than later. The U.S. is better off holding one export control philosophy and strategy *and sticking to it*.

### [Expanded Reading]

- [US Pulls TSMC's Waiver for China Shipments of Chip Supplies](#), *Bloomberg*, September 2, 2025
- [US Makes It Harder for SK Hynix, Samsung to Make Chips in China](#), *Reuters*, August 30, 2025
- [Alibaba Creates AI Chip to Help China Fill Nvidia Void](#), *The Wall Street Journal*, August 29, 2025
- [Intel Amends CHIPS Act Deal with US Commerce Department, Gets \\$5.7 Billion Early](#), *Reuters*, August 29, 2025

- [White House Officials: China's Chip Plans Prove Need to Push U.S. AI 'Stack'](#), *Inside U.S. Trade*, August 29, 2025
- [Nvidia Says It's Missing out on China Sales as It Awaits Guidelines on US 15% Pay-to-Play Plan](#), *CNN*, August 28, 2025
- [Nvidia CEO Huang Says Bringing Blackwell AI Chip to China 'Is A Real Possibility'](#), *CNBC*, August 27, 2025
- [China Aims to Triple AI Chip Output, Reducing Nvidia's Dependency, FT Says](#), *Reuters*, August 27, 2025
- [Nvidia Revenue Soars, But China Chip Sales Screech to A Halt](#), *AXIOS*, August 27, 2025
- [Moolenaar Proposes New Framework to Keep China Dependent on AI, Limit Their Advanced Capabilities](#), *The Select Committee on the Chinese Communist Party*, August 26, 2025
- [U.S. Government Takes 10% Stake in Intel, as Trump Expands Control over Private Sector](#), *CNBC*, August 22, 2025

## On the Hill

### [Legislative Development]

- House Democrats led by Raja Krishnamoorthi (D-IL) introduced the *No Advanced Chips for the CCP Act*, requiring both Congress and the Executive Branch to approve any advanced U.S. chip sales to China, in response to President Trump's decision to permit Nvidia and AMD exports under a 15% revenue-sharing deal.
- Reps. Jared Golden (D-ME) and Greg Steube (R-FL) introduced the bipartisan *Secure Trade Act*, which would impose 100% tariffs on Chinese strategic goods, 35% tariffs on other Chinese imports phased in over five years, and a universal 10% tariff on all U.S. imports while granting the president authority to adjust rates and block certain foreign investments.

### [Hearings and Statements]

- The House Judiciary Committee held a hearing on September 3 to examine how the EU's Digital Services and Digital Markets Acts and the UK's Online Safety and Digital Markets laws affect U.S. free speech and innovation, with Chair Jim Jordan warning they unfairly target American tech firms while Trump threatened tariffs on countries imposing such digital regulations.
- Rep. Raja Krishnamoorthi (D-IL) warned in a letter that President Trump's remarks suggesting China could keep buying Iranian oil during trade talks risked undermining U.S. sanctions policy, emboldening Beijing, and funneling resources to Tehran, while he pressed the administration to clarify whether easing sanctions is being offered as part of negotiations.
- On August 18, the Joint Economic Committee's Democratic members compared the economic uncertainty caused due to Trump's tariffs with Brexit, warning it could cost U.S. manufacturers \$490 billion by 2029.

### [On the Hill - A Recess Review of China Finance Bills in the 119th Congress]

- If tech decoupling is old news, capital decoupling is the shiny new toy for the 119th Congress. Once confined to headline-grabbing bans on Chinese farmland purchases, the scope has ballooned. Lawmakers are now chasing the renminbi at the IMF, probing China's exchange rate tricks, scrutinizing both inbound and outbound investments, and even toying with rules that would dictate how index funds allocate capital. By August, more than fifty bills had surfaced under the "capital" rubric, making this one of the fastest-growing categories of anti-China legislation.

Crypto, in particular, captures the paradox perfectly. On one hand, Washington has anointed digital assets as a lifeline of America's economic revival. Trump signed the Stablecoin Act with fanfare and the bipartisan GENIUS Act was sold as proof that the U.S. would lead the next financial frontier. Yet, Congress has wasted no time in moving to block China from reaching that same frontier. The *Prohibiting Foreign Adversary Interference in Cryptocurrency Markets Act* would bar any Chinese-affiliated platform from registering in the U.S., effectively telling Beijing "This is our new lifeboat, and you're not allowed on board". The irony is hard to miss. Crypto is pitched as a universal solvent for U.S. growth and innovation, a way to outpace regulatory sclerosis and dollar malaise. But it is also being weaponized as a geopolitical moat, designed to keep Chinese capital out. Washington wants blockchain to save American capitalism, but only so long as the lifeline doesn't double as a water hose back to Beijing.

Taken together, the bills may look performative today—lots of reports, studies and prohibitions that have yet to bite, but anyone who remembers the early days of tech decoupling knows the pattern. First comes the symbolism, then the substance. If Congress is already willing to securitize crypto flows before the sector has even scaled, the trajectory is clear: capital decoupling will become just as entrenched as tariffs and tech restrictions. The ballast of trade and finance that once steadied U.S.–China relations is being systematically dismantled, brick by brick.

#### [Expanded Reading]

- [Europe's Threat to American Speech and Innovation](#), *The House Judiciary Committee*, September 3, 2025
- [Krishnamoorthi, Bera Introduce Legislation to Require Congressional Approval Before Sale of Any Advanced AI Chips to China](#), *The Select Committee on the Chinese Communist Party Democrats*, August 22, 2025
- Krishnamoorthi Presses Trump Administration on Apparent Retreat from Sanctions on Iranian Oil Sales to China, *The Select Committee on the Chinese Communist Party Democrats*, August 19, 2025
- [NEW REPORT: Uncertainty From Trump's Tariffs Derails U.S. Manufacturing in Both the Short and Long Term](#), *Joint Economic Committee Democrats*, August 18, 2025
- [Golden, Steube introduce bipartisan Secure Trade Act](#), Jared Golden, August 15, 2025