“Poison pills” extend Trump’s trade war

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A central plank of the Trump administration’s economic policy agenda has been the imposition of sweeping tariffs against friend and foe alike, especially after the unveiling of the all-embracing “reciprocal tariffs” on April 2.

According to Trump, his officials and acolytes, the revenue they bring will reduce the US budget deficit, its record debt, fund tax cuts for the corporations and the wealthy, create jobs and lift wages and in general create the conditions for a new “golden age” for American capitalism.

Trump has continually boasted of the hundreds of billions of dollars flowing into the coffers of the US, reversing the previous situation in which it has been “ripped off” by the rest of the world.

But in the Supreme Court on Wednesday, Solicitor General D. John Sauer, representing the administration, was singing a very different tune. The occasion was the appeal by the Trump regime to the court to have rulings by two lower courts that the reciprocal tariffs, imposed or threatened by Trump under the International Emergency Economic Powers Act (IEEPA) of 1977, are illegal.

Sauer submitted that revenue raising was not the primary purpose of the tariffs.

“These are regulatory tariffs. They are not revenue-raising tariffs. The fact that they raise revenue is only incidental. The tariffs would be most effective so to speak if, if no person ever paid them,” he said.

The reason for the switch was an attempt to get round the legal argument that Trump exceeded his powers to act under the IEEPA because it makes no mention of tariffs or any of the synonyms such as duties, taxes or imposts.

The thrust of Sauer’s argument was that the reciprocal tariffs were not about revenue but were part of the conduct of foreign policy and therefore fell under the president’s authority.

“If the threat of imposing those tariffs gets China and our other trading partners across the world to change their behaviours in a way that addresses this, then that’s the most effective use of this policy,” he said.

The switch of argument by Sauer during hearing—in its initial submission the administration said if it were forced to repay the tariffs it would cause economic devastation—is another example of the capacity of the Trump regime to argue black is white today and the reverse tomorrow.

But there was an element of truth in Sauer’s remarks.

The issue is not the revenue the tariffs produce but the way they can be used to achieve foreign policy objectives, above all in the economic war against China. This involves not only measures aimed directly against Beijing, but also at breaking the economic and trade ties that a multitude of countries have with China, particularly in Southeast Asia.

This is made clear from a paper prepared last week by international trade expert Simon Evenett in which he made a detailed examination of the “agreements”—more akin to Mafia-style diktats—between the US and Malaysia and Cambodia at the end of last month.

Both contain what is referred to as “poison pill” provisions, which provides for retaliatory action by the US if either country enters a pact or signs an agreement with another country or group of countries which Washington deems to be against its economic and national security interests.

Poison pill stipulations, that is, restrictions on relations with third countries are not new. The first Trump administration included them in the 2018 agreement with Mexico and Canada. But they covered relations with a “non-market” economy (essentially meaning China) and involved a series of procedures before being invoked.

Seven years on such provisions have been dispensed with. The deal with Malaysia states that it will be revoked if it enters any agreement that "jeopardises essential US interests." The language is slightly different with regard to Cambodia, referring to any agreement with a third party which "poses a material threat to economic or national security" of the US.

In the case of Malaysia, Evenett explained in his paper, that the provision "establishes direct termination with explicit tariff reversion as the remedy. The United States may 'terminate this Agreement and reimpose the reciprocal tariff rate set for in Executive Order 14257 of April 2, 2025.'"

In other words, reductions in tariffs by the US from their initial high levels will end and the devastating impact of the April 2 measures unleashed.

In the case of Cambodia, which sends around 42 percent of its exports to the US, the wording is slightly different and does not directly refer to the April 2 order. But there can be no doubt that the impost of 49 percent set out in that announcement is hanging over it like a sword of Damocles.

Evenett pointed to the implications of the latest "poison pill" provisions.

"Because the term 'essential US interests' remains undefined in the agreement text," he wrote, "the United States retains the unilateral interpretive power to determine which countries and which agreements pose such threats."

And the groundwork is being laid for an extension of these measures.

"The inclusion of poison pill provisions in the Malaysia and Cambodia agreements creates precedent that may affect US negotiations with other countries. If poison pills become standard US practice, countries negotiating future US agreements face increased pressure to accept similar provisions."

In the longer-term, he noted, "poison pill provisions transform trade agreements from purely trade agreements into tools for managing partner countries' broader foreign economic policy orientation."

That is true, but it is putting it somewhat mildly. In essence what the Trump regime is seeking to establish is a kind of economic dictatorship, in which, under the threat of economic devastation being unleashed against them, countries seeking trade deals with the US are to be reduced to a 21st century version of semi-colonial status.

In the immediate situation, as Evenett pointed out, the poison pill provisions are aimed at ending the hedging strategies employed by a number of countries as they seek to navigate the deepening economic war launched by the US against China—pledging support for the US role in supposedly providing security for the region while maintaining their vital economic links with China.

The tactic was on display as the agreements imposed on Malaysia and Cambodia were being signed.

China and members of ASEAN (the Association of South East Asian Nations) signed a protocol to upgrade the China ASEAN free trade area which Chinese premier Li Qiang said demonstrated the "shared commitment to firmly support multilateralism and free trade" in the face of "severe challenges" to the international economic and trade system.

The US, however, is determined to break these connections. As Evenett remarked to the *Financial Times*, the US is out to "try and reshape the 'factory Asia' [which has seen greater economic ties with China] that has developed over recent decades."

Another move in the same direction is the push by the US to have a 40 percent "transhipment" tariff applied to what it considers are primarily Chinese-made goods, but which are sent to the US from south-east Asia countries.

The recent summit talks between Trump and Chinese president Xi Jinping were greeted with sighs of relief that a "truce" in the economic war had been reached—at least for a year. In fact, as the poison pills signed into two major agreements reveal, it is intensifying.