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## **"The United States, Trade Remedies and the WTO."**

And, Scott, you work with a lot of companies that use the **trade remedy laws**, that are concerned about some of the trends we've seen in recent years. Why do you think we've seen this uptick in their use? And what are the companies looking for, in terms of resorting more to trade remedies as a solution for some of the challenge they've been facing?

PAUL: It's a good question. And thank you, Ted, for the opportunity to be on this panel today.

I think trade remedy usage is dependent upon two major factors. First of all, the economics has to support it. So you need to be able to form a case that is credible, that either dumping has occurred, there are measurable subsidies, that these have caused injury. And so you have the economic factor. And then you have the political factor, and how willing will whatever body be willing to provide that type of relief. And interestingly, with respect to China in the Bush administration, I think there was plenty of evidence that you could have used safeguards, but there was no willingness on the part of the Bush administration to do it. And so companies stopped bringing those cases. They were called 421 cases. That law has since—or, that ability has since expired.

**And in the Obama administration, I think there was a pretty clear signal sent that, you know, anti-dumping and subsidy cases would be fairly adjudicated.** So, you know, if the—if the economics supported it, the industry got behind a case—which is another

important factor—you would—you would file them. And now with the Trump administration, I mean, he laid out—and there's a—kind of a seminal speech he gave on trade in Monessen, Pennsylvania in late June of last year—you can look it up—because it specifies. He said, look, I will use 232, and I will use 301, and I will use 201. And all these sections—he kind of laid it out, that he would be open for business on all of this.

But I think still, just going back to my first point, you have to have the—kind of the economic—you have to be able to make the economic case that there either has been dumping or subsidies or that you've had some sort of injury. And it depends, obviously, on the type of case that you're filing. But clearly there seems to be the political interest in doing this. And so if you think you have a credible case, now's a good time to consider it.

ALDEN: Yeah, I mean, Chad, let me press you a little more on this too, on the sort of business as usual versus not normal. We've talked about the **Bombardier AD/CVD case**. And John Weekes mentioned in the panel this morning, you know, Boeing had originally asked for, I think it was, 80 percent in the CVD case. They got 220 percent from the Commerce Department. Again, do you see signals that we are in a very new era in terms of the way some of these—longstanding, to be clear—trade remedy laws are going to be used?

BOWN: Yeah. So I do. And I think you can—or, at least I personally trace this back to late April, really, like right in the lead-up to the hundredth day, when the Trump administration was kind of running around to do a number of things. They self-initiated the two national security investigations on steel and aluminum. We haven't seen any actions taken here yet, but I agree with Scott, that signals to the world explicitly, hey, if you're interested in protection, we're open for business. Come bring your cases forward. Shortly after that, we saw the filing of the two Section 201 cases, the global safeguard

cases. This law hadn't previously been used since 2001, the Bush administration, the major steel safeguard.

And one of the reasons why is because it's always been up to the president to decide whether or not to grant protection under that law. And so in many prior administrations, even when there was evidence of injury, they didn't grant protection. Well, President Trump seems to be signaling he's willing to grant protection, so cases are being brought forward. I think, to my mind, that shifts a bit of the impetus onto the International Trade Commission to actually maybe treat the injury decision a bit more seriously than they have in the past, because they're not going to be given a free pass this time around with this administration. It looks like this president wants to implement protection.

Then you also see kind of out-of-the-box cases as well, like Bombardier and Boeing, where arguably, hey, sure, there's likely subsidies there. But the big question is, should this be treated as a CVD case, or is this something that we should be adjudicating in Geneva, dealing with the subsidies directly and not through trade remedies? Everybody subsidies in aircraft, right? So the question is, do we want to go through this tit for tat road, or do we want to try to rein this in through other means? And to me, these are kind of the worrisome signs that things really are different with this administration.

ALDEN: I mean, Chad's given me a nice segue to WTO, which I do want to go to, but just quickly, Scott, when you—you know, when I talked about the speech, all the things he was going to do, and you looked at me sideways. When you take the example of the 232, he's initiated but not done it. Well, what's the impact of that been? I mean, it's sort of had this paradoxical impact on the steel market, hasn't it, of announcing something and then not moving forward with it?

**PAUL:** Yeah, without leaning too heavily into political economy and causes and effects, I mean, I'll just say that there's certainly been a correlation. I mean, there's a 21 percent increase in steel imports. There's not really another reason why that would have occurred since April. But it was—you know, it kind of models the behavior of countries trying to get in under the wire. And it's—there are now kind of—you know, there are two steel mills that have announced layoffs in Pennsylvania, one of which produces armor plate, one of the last mills in the United States that would do that. And so it's had the reverse effect on steel workers than the president has said it would.

**I do want to turn to the WTO now.** So, you know, if we think about how these cases sometimes play out—you take the last safeguard initiation, the Bush administration's tariffs on steel, that ends up going before the WTO. The WTO says, you didn't follow the process, and the Bush administration removed them. I assume a lot of this stuff will end up at the WTO. But this administration has also signaled that it's very unhappy with the WTO dispute settlement process, we talked about NAFTA dispute settlement this morning.

Kellie, tell us a little bit about what's going on in Geneva, the pressure the new administration has been putting on the WTO over the operations, the appellate body, and the whole dispute settlement system.

**MEIMAN HOCK:** Yeah, well, the appellate body dispute predates Trump, right? I mean, there were—there was first one vacancy, now there's two, **in December there'll be three vacancies on the appellate body,** which is basically when you appeal a case at the dispute settlement board then that's where it goes. And essentially it's over this dispute of how are—how's the appellate body interpreting specifically—that's where the most controversial cases are—trade remedy cases. The most stark example is the use of

zeroing—which, talk about wonky, nerdy stuff—but it basically is, you know, when you're trying to see how a dumping tariff is going to be set.

You know, basically if exports—if you're exporting more than you're importing, or the—excuse me—the difference of the price of your export versus what you're selling at your domestic, if the export price is actually lower—or, excuse me—actually higher instead of lower—I can't say it right—then they just call that a zero rather than actually saying, no, you're actually selling this for more expensive in the United States than selling it for cheaper. Rather than giving you credit for selling that item more expensive in the United States than you are in your domestic market they say, no, we're going to call that a zero. So that's zeroing.

You know, so something as kind of weedy as that has basically **paralyzed the appellate body at this point**. And we expect that it's just going to, you know, get worse as people, you know, continue to have their terms expire. So you know, that being the case, this is the debate when it comes to the dispute settlement board and the appellate body is what's their role. I mean, are they crossing the line of actually trying to change what we've agreed to in the WTO, or are they indeed doing what they're supposed to be doing, which is interpreting. Which, again, you know, isn't just a Trump thing. But if you have that dynamic already before the Trump administration comes in, and then you have an administration that comes in saying that they don't trust their foreign tribunals and his sort of thing, it obviously exacerbates the situation. And that's where we find ourselves today.

ALDEN: Scott, did you want to weigh in on that too? Because you've been thinking about this a lot, yeah.

PAUL: Yeah, I will. And it's impacted a number of our member companies adversely, is that—and, first, I think having a rules-based trading system is essential. **I also think that**

the appellate body has extraordinarily overreached. And that's—you know, and I think that the Obama administration shared some of that point of view as well. They may have expressed it differently, but they shared that point of view. And, you know, you can easily piece together an argument that the U.S. has been—has been, you know, adversely impacted, has been targeted for particularly its applications of trade remedy measures. It's challenged five times as much as any other member of the WTO. It's lost 38 out of 45 challenges since 1995 to its application of trade remedy laws—again, way more than any other country that utilizes trade remedy laws.

And there appears to be a bias here. And it's a real challenge. And until both the WTO institutions, the stakeholders, and this administration comes to grips with it, I think that you'll see this tension. And I'd like to see the system preserved. I think that, you know, we've been able to make a lot of progress by utilizing the WTO to both reduce some barriers overseas. And we've got a very good track record in that. But when it comes to defending trade remedy measures, it's been—there seems to be this bias that's built in that it's not well-accounted for in the rules of the WTO.

ALDEN: Chad, do you want to add a comment?

BOWN: Yeah, I mean, so I would disagree with the fact that there's a—or the idea that there's a bias. So the basic idea is everybody loses at the WTO, if you're a respondent. And so the United States, it has lost, basically, all the cases that it's faced as a respondent on trade remedies. Trade remedy cases are really easy to bring because they're super transparent. And that's why lots of companies bring them against us. And we tend to not bring them against other countries because we're not hit with these kinds of things, for the most part. The other major users of trade remedies—Brazil, India—the trade at stake in those cases are much, much smaller. So for a lot of the companies out there, they don't bother to pursue those types of cases against the Brazils and Indias out there in

the world. But if they would, they would lose too, is the main point. The WTO panel system, the appellate body, is completely even-handed. All the respondents in these cases essentially lose.

So to my mind, the biggest—the bigger question on this challenge with the appellate body and the WTO is do we really want to bring down the system because we have a disagreement about the rules of zeroing? And I, as an economist, look at this idea of zeroing—and we can have a long debate over this but I don't think it's worth it—it's just fuzzy math is essentially what it is. And it's a question of, well, and the framers of the Uruguay round in '95, did we agree to allow this—the United States to do this, or did we not? The difficulty under the WTO is there's no legislative function where, when you have these sorts of disagreements, you can make modest changes to the rules. And so the WTO judges are sort of confronted with the fact that there's no legislative changes going on. So how do they make rulings on this kind of stuff?

So this is a tension. But to my mind, it affects a very small amount of trade. And I understand it may affect trade in particularly sensitive products and industries in the United States. But this bigger question of do we want to throw the baby out with the bathwater, whatever the expression is, and get rid of the entire functioning dispute settlement system because of it I just find is a bit—is a bit perplexing.

ALDEN: OK, I'm going to ask you each quickly to look into the crystal ball. So in the past, when the United States has lost WTO cases, it has complied—or, it certainly tried very hard to comply. I think the only exception maybe is Brazil cotton, where we paid them off. But for the most part, we've tried. I mean, the steel tariffs, the Bush administration removed them. So let's say, I don't know, solar or 201 washing machines or 230, or whatever, makes it way to WTO, goes through the process, WTO says sorry you can't do that, it's against the rules. What does the Trump administration do?

**Kellie, does this administration abide by a WTO decision in one of these cases?**

**MEIMAN HOCK:** That's one of my biggest fears, is that they won't and that they'll take the risk of, well, what's the other country going to do? Because in many cases the option for the other country is simply to increase tariffs, increase their inflation rate. And having worked a great deal on Brazil cotton, I can tell you, that was the quandary for the Brazilians. They said, well, you know, why in God's name do we want to increase our tariffs—

**ALDEN:** This was a case, just quickly, where the United States instead of changing its subsidies in response to a WTO decision decided to effectively pay off Brazilian cotton farmers, right?

**MEIMAN HOCK:** They've—right, they've—

**ALDEN:** Oh, yeah. Sorry. Did both, OK. (Laughs.)

**MEIMAN HOCK:** Yeah. But at any rate, so that was the quandary that the Brazilians found themselves in. So they were basically saying, you know, to U.S. industry, he's our retaliation list. Here's—and, by the way, we can also retaliate against patents. Here are the patents we're thinking about retaliating against. Please get your Congress to do the right thing, because we really don't want to do this. And so, you know, that's widely known, I think, in Washington. So you know, I do fear, given the orientation of the Trump administration, that they would take that risk and know that it's difficult for the other countries to retaliate, and that they would roll the dice.

The fear that I have in that case, that's where I think the retaliation fear is real, because, you know, it's always been the case that, you know, **the WTO dispute settlement system—as controversial as it's been—has been overall a huge win for the United States. We've won many more cases than—certainly than we've lost.** And you know, at that point, we really are putting ourselves in jeopardy.

**ALDEN:** Scott, same question. Does the Trump administration comply? Should it comply with an adverse ruling, just say hypothetically, on one of these cases?

**PAUL:** I want to warn the audience, I've been wrong about every prediction I've made about the future actions of the Trump administration to date. (Laughter.)

**MEIMAN HOCK:** All of us have. (Laughs.)

**PAUL:** No, I think—take it with a grain of salt. But I—look, I think that—I think the answer, Ted, is it depends. I think it depends on what the stakes are in the case. And if you—the other thing about safeguard cases in particular is that they do have an expiration to them. And so oftentimes by the time these cases wind its way through the process, the relief is close to expiration or to reconsideration. But it's—I mean, domestic industry would far prefer to go the anti-dumping countervailing duty route, because you get a longer period of relief there. So it's—I think it's depends on what the case is going to be, what the circumstances are going to be at the time, kind of geopolitically, and if they want to tweak the WTO in some way.

**ALDEN:** Chad.

**BOWN:** So I think there's two kind of separable issues, one of the point of retaliation. And to make the point, let me go back to Scott's earlier example on the Section 232 and tax reform. To my mind, that's a clear example of where—the reason why these two things are tied together are explicitly because of the retaliation threat. So if you remember, back to July right before the G-20 Shawn Donnan had a nice piece in the Financial Times basically laying out these are the products the Europeans are going to threaten to retaliate over if the United States does steel and it hits European exports. It's going to be bourbon from Kentucky, dairy products from Wisconsin, right? McConnell,

Ryan, right? So if you want cooperation in the Congress on tax reform, health care reform, infrastructure, all of those items, the administration recognizes, hmm, we need to be worried about this threat of retaliation. So I think that's one potential concern.

Now, does that happen all the time? I don't know. It depends on politics. The separate issue, though, of the WTO, **are they likely to comply with rulings, I'm not optimistic.** And I think there, you know, Ambassador Lighthizer has said it explicitly. At an event at CSIS a couple of weeks ago, he expressed affinity for the old system of dispute settlement under the GATT, you know, the General Agreement on Tariffs and Trade, in which any country could essentially veto it. It was not a rules-based trading system. It did not have this ability to be able to fight off disputes that lead to retaliation in the end. That is his vision, right? In that sort of world you have the United States acting less in a rules-based fashion, and more, potentially, as a potential bully out there. But he signaled that's what his—that's what his, you know, approach would preferably be. So I'm not optimistic that they would end up following the rules if faced with an adverse decision.

ALDEN: Yeah, I'm going to go off-script for a last quick question to each of you. One of the questions—I don't know about you guys—but I get very tired of hearing is reporters who don't follow trade, not like the wonderful reporters in this room, but who don't follow trade—(laughter)—who call me up whenever there's a trade dispute and say: Is this the start of a trade war between the U.S. and X? And I'm always like, no, it's not the start of a trade war, and here's why. So I'm going to ask you. I mean, given the conversation here, are we actually in the threat of trade wars? Maybe I'll throw that to you first, Scott. (Laughter.)

PAUL: Well, and my stock answer is that we've been in one for a while with China, and we haven't been using all the tools available to us. So it's a—I think it depends on your perspective there, is that we've been very exposed to a lot of practices and impacts from

import competition through state-led capitalism, that's had profound impacts on the manufacturing economy of the United States. And so if we start pushing back is that a trade war? I mean, it's kind of a rhetorical question. It's, like, it's well within our rights to do a lot of this. And when a rules-based trading system was set up, they recognized the role for anti-dumping measures and countervailing duty measures.

And so I think the real question is that, yeah, not to kind of overreact every time you see this come up. Or, you know, there Obama administration through countervailing duties have steel tariffs up to 500 percent on some particular companies and some line of steel. And I don't remember anybody saying: Oh my God, we've started a trade war. So it all depends on your perspective. I—look, clearly this administration does have a vastly different posture. And so it is possible. But I think that's entirely different than asserting rights that you have.

ALDEN: OK, so, Scott, there may be a trade war, but they started it, OK? (Laughter.)  
Chad.

BOWN: So, I also want to say that I agree with Scott about some of the underlying problems here. **And I wouldn't say that we have been in a trade war with China**, but I agree wholeheartedly that we are facing a fundamentally important moment about how we're dealing with this bilateral relationship with China, in an economy that just works fundamentally differently. And it's, unfortunately, now playing itself out more broadly because a lot of these new trade remedy cases that we're seeing, especially in industries like steel, we've already stopped most of the imports of steel from China from coming in.

So now we're having to hit our allies, right. And it's not because they're necessarily dumping or doing something unfair in the sense that we're worried about, but they're getting squeezed out of third markets. And so they're now exporting into the United

States at really low prices, right? So, yes, it satisfies the criteria of dumping, but it's not the fundamental underlying problem of overcapacity that is China. So my concern with all of the use of trade remedies is it never addresses the underlying source of the problem, that you would be better sourced at doing, you know, through negotiations, through some sort of bilateral, multilateral approach that we're right now not seeing. And as we saw in the panel this morning, we've yet to really envision a long-term strategy from the Trump administration on dealing with this China issue.

ALDEN: Kellie, how worried are you about something that looks like more aggressive trade conflict than we've seen in the recent past?

MEIMAN HOCK: Well, I mean, I think it's definitely a possibility. I think that the countries that are impacted by not just our trade remedies but—you know, you all talked about it this morning—the possibility of a withdrawal from NAFTA. I mean, you know, I'll say this: People, our trading partners, are much more prepared—(laughs)—right now than I've ever seen them in emerging markets to retaliate if they need to. And typically that's not the case, because the rhetoric isn't where it is and, you know, the actions aren't where they are.

We don't normally have 232 cases lingering out there. And so, you know, definitely the analysis has been done, you know, which congressional districts can you hit with which products if you need to, you know, with trade actions of our own. And, you know, for the Mexicans' part, for example, I mean, they're sitting on—from trucking, ironically, because apparently trucking was a difficult issue over the weekend—but they're already sitting on \$2 billion worth of retaliation that they could enact tomorrow if they wanted to, completely legally. So I think the possibility is real.

ALDEN: Yeah, there was a great, if somewhat frightening, column by Peter Clark, who's a lawyer in Ottawa whose been following these things forever, saying that when it comes

to retaliation, the United States is a target-rich environment. And I think that's very true. I mean, there are a lot of interests that our trading partners could go after if they were really determined to do so.

OK, I would like to open this up now to our audience for questions. There were other things I didn't quite get a chance to—we were going to talk about China and non-market economy status, which came up in the previous session. But questions for our panelists here. And if nobody comes quickly out of the box, I am going to ask about China and non-market economy status. Well, nobody—Scott, I'm going to throw this to you to start, which is—you know, it came up in the previous panel.

China was expecting at the end of the last year to be **given market economy status**, which quickly—and you can correct me if I'm describing this wrong—means they would be treated like every other country under our anti-dumping and countervailing duty laws. Generally means you're less likely to be hit with very high dumping and CVD margins because of the way the analysis is done. China was expecting this to happen. The U.S. is resisting. The Europeans have resisted in different ways. How do you see that playing out?

PAUL: Well, I think that the U.S. will not grant market economy status for China. There's a **clear test in our laws**, a six-part test. If you read it yourself you'll, I think, come to the same conclusion that I have, that China doesn't meet any of the six tests. And we've been transparent about that. This isn't a surprise. And this is, again, I think a carryover from the Obama administration. There was, I think, not a lot of conversation about it, but there were signals that were sent that this is kind of what the U.S. position is.

With the EU it's a little different, because they don't have a similar test in their law and they have to manage this a little bit differently. But, look, I think this is going to be a test

of how interested the U.S. is—this administration is interested in engaging with the WTO. And this—I mean, this is a case that could potentially case that kind of separation and disruption. And so I—you know, the U.S. has postponed a decision through a countervailing duty action on aluminum foil, making a determination on this until the president comes back from Asia. But this could come by the end of the November.

**ALDEN:** Kellie, did you want to weigh in on this at all?

**MEIMAN HOCK:** Yeah, definitely. I mean, I think that—you know, if you look at the countries that have named China a market economy, mostly it's because they needed to, to get their free trade agreements with China. And the impact to those countries of an influx of Chinese imports, I mean, it's real. So, you know, you just look at that reality and it's hard to imagine, particularly in the current environment, that the Trump administration would, you know, change in any way.

Even if you look at a country like Brazil, which certainly, you know, during the last two administrations was, you know, flirting pretty heavily with China and talked a lot about giving them market economy status, they never really, you know, ended up pulling the trigger on it at the end of the day. So there's—you know, if you look at all the parties, third-party players to the EU and the—and the U.S. panel, you know, there's a decent amount of support there again, in particular by the countries that typically file a lot of remedy cases.

**ALDEN:** Questions? Sir, here. And please identify yourself.

**Q:** Larry Bridwell. I teach international business at Pace University in New York.

I'd like to ask a question of the Brazilian expert, how you would view the future relationship between Brazil and the United States in conjunction with their relationship with China.

**MEIMAN HOCK:** Well, I think that—you know, as I said, during the previous two presidential administration in Brazil there was a real focus on building alliance with China. They kind of tripled down on this BRICS alliance and kind of gave it the old

college try. And at the end of the day, realized—at least under the current administration; they've got their own political problems in Brazil, to be sure—but that a number of the investment promises, et cetera, that were made by the Chinese really weren't fulfilled at the end of the day. And so the relationship really has continued to be, you know, certainly close, but also not, you know, a real marriage that in that regard. And right now, with us hitting the pause button really on our trade policy here in the United States, you know, you're seeing not just in Brazil but throughout Latin America the Chinese really taking advantage of that. They feel much more present in South America than they have in recent years. Definitely are, you know, spreading investments around, particularly in the infrastructure sector. So I think that, you know, that's going to be a reality that in the United States we're going to have to grapple with. That's not going to go away, you know, if Trump doesn't win, you know, in three and a half years. I mean, that reality is going to stay.

But, honestly, what's been interesting is you find—I'm actually leaving for Brussels right after this panel. And you're seeing the talks between Mercosur, Brazil, and Europe that actually—I mean, this has been forever that the Brazilians are saying, oh, we're going to get it done. And I'll say what about ag? And they'll say, we're going to get it done. Don't worry. We're going to, you know, make an agreement on ag, and I'll kind of roll my eyes. This is the first time where they're saying they're going to deliver something by December. And it's the first time it's kind of vaguely credible. They actually might come up with something by December. I don't know if it'll include ag, but they're trying to figure something out.

So that dynamic goes well-beyond Brazil—be it TPP 11, be it, you know, enhanced negotiations with Europe or even China. I think markets throughout the world are trying to hedge their bets in case we end up turning our backs on the world trading system, throwing the baby out with the bathwater, as you're saying, or we decide to even, you know, triple down on using or overusing remedies. Folks are hedging their bets.

ALDEN: Interesting. Other questions? Yes, sir, at the back there.

**Q:** My name's Robert Chamberlain. I'm in the Army.

So we talked on the China panel about how security dynamics were impacting trade with THAAD hitting South Korean exports. And I'm curious, and especially based on your comment about steel, what kind of spillover effects would you anticipate from potential trade conflicts in the security sector and the security manufacturing in particular. Would it be more expensive or more difficult to build systems going forward? Thanks.

**ALDEN:** Scott, and maybe Chad, do you want to talk a about the Bombardier case a little bit, which is interesting there. Do you want to start, Scott? Yeah.

**PAUL:** Yeah, I'll just say briefly, I mean, a lot of military procurement is already subject to a buy-America standard, and so it's not like we're—you know, we're currently importing a lot of steel for defense purposes in the United States. So I—in terms of disrupting that kind of market in particular, I don't see that—I don't see that impact. I mean, there are larger questions. And I think this is a fair question, that if the 232 case does reach a review and kind of decision phase, in that there are remedies imposed, what kind of impact that does have.

And I think Chad pointed out that, you know, a lot of major steel importers are, like, the EU, Canada, Mexico, Korea, Japan, you know, in addition to China and how that would play out. And so I think that that's a—I think that's a legitimate and really difficult question that the administration is going to have to grapple with in sort of crafting some sort of remedy for this. It's not—it's going to take a lot of precision in terms of how it's done, but I don't—for our own procurement market, I don't necessarily see a profound impact if there is a 232 case.

**BOWN:** I guess the only thing that I would add is another common feature of a number of the trade remedy cases that we've seen—steel, aluminum, softwood lumber, solar panels—a lot of these are intermediate inputs for something else, in which—not necessarily on the military procurement side—are going to have downstream effects for

other industries out there in the United States that need to buy these things to make their products to be competitive either in the U.S. market or in global markets. And so if we're imposing tariffs on these things, that's going to raise costs for all of those using industries and make it more difficult for them to compete. And that, I think, has not been a bigger part of the conversation thus far.

MEIMAN HOCK: Can I add one thing to that, I mean, just having worked on Brazil that is very dedicated, and has been since the '50s, to industrial policy, I mean, I think that that's a big piece of the debate that I wish I saw us having here in the United States. And I've said this when I talk to folks about increased use of trade remedies, you know, the rules of origin proposal that's out there on autos for NAFTA. Is, you know, if we decide that we want to have increased local content as a country, you know, OK, but let's have that debate with all the facts on the table. And let's understand that in Brazil you pay for a Toyota Corolla what you pay here for an Audi.

They also are completely unable to export. I mean, I worked on a case once where you were able—it was a procurement in Peru. And we could source the product—and I won't say what it was, but it was a very heavy product made of steel—and we could source it more reasonably out of Italy than out of Brazil. So if we have that national conversation and we decide that that's where we want to end up as a country, then I think that's OK. But I don't hear us having that national conversation.

ALDEN: Good point. Stephen (sp), here in the front row.

Q: Yes. Stephen Keane (sp).

The OECD has a committee that deals with export credit agencies. And then there's also something called the arrangement on export credit issues. Largely export credit issues have been dealt with out of the OECD, and particularly aircraft. There's a special agreement on aircraft. And there was a great effort to keep that out of the WTO on the

part of the United States and other countries. It's a deal with concerns of—over Canada, concerns of the Brazilians, concerns related to China. We can see how that the Trump administration is bringing an action against the Canadians over the Bombardier issue. Has the issue of export credits been dealt with effectively? Should it be dealt with, you know, more through the WTO? Should the OECD be doing different things? What would be your ideal way of dealing with these issues?

**ALDEN:** OK, who wants to tackle export credits?

**BOWN:** Well, I guess I would say that subsidies, in many respects, are quite fungible, especially in aircraft, right, because we've had a hard time defining even what a subsidy is, what the Canadians give as subsidies or what the Europeans give as subsidies, launch aid, is very, very different from how we think about subsidizing Boeing in the United States, which is spillovers from military contracts, right? So it really has to be a holistic kind of approach if you're going to deal with this issue fairly. And I think if you're only going to tackle it through export credits, then a lot of it is going to get missed.

But I think it needs to happen, right? We've been struggling with this issue for 30, 40 years. First, it was just the U.S. and the Europeans, then Canada, Brazil. But the major new kid on the block on this is China. And the more that there's sort of this bickering within the family, in some sense, you're leaving out the next major player in this market, which is China. And so I think it needs to be brought together as a bigger multilateral issue, perhaps with the OECD. But I think effectively through the WTO as well.

**ALDEN:** Yeah. You know, I might take moderator's prerogative here just because the first two big stories I worked on as a reporter on trade policy when I joined inside U.S. trade were the negotiation—so the rise, negotiation of the OECD export credit arrangements, and the fights over aircraft and the limits on subsidies to aircraft. And, I mean, the OECD arrangement is a really interesting example of a very successful agreement that put real restrictions in place that the countries that were part of it

followed in terms of the, you know, degree of subsidy effect that you could do through official export credits.

And it worked very well for about a decade, maybe 15 years. But then the Chinese came on board. They were not party to the arrangement, and you've begun to see this erosion. And it's not very effective at all anymore. And I'm worried that we're seeing some of the same things going on with respect to WTO rules. Chad mentioned the lack of a legislative function. We have this WTO system that's now 20-plus years old. It's got new members—most prominently China, but Russia and others as well. And we haven't updated the system in this long period of time. And I think unfortunately you do begin to see this degeneration in the ability to enforce rules effectively if you can't legislate and update arrangements. So the export kind of stuff I'm afraid is sort of a cautionary tale more generally for the rule system.

Other questions out here. Yes, ma'am. Just wait for the microphone here, please.

Q: Hi. I'm Eva Fineyer (ph). I'm a private investor.

So along the lines of agreements, we've talked a lot about the Trump administration and countervailing action, but a major—or maybe even the major portion of the argument he made on the campaign was about unfair trade deals. Do you foresee a trade strategy emerging and being implemented, renegotiating on a bilateral basis, or maybe even going back to the old system of trying to negotiate on a multilateral basis? And I'm sure all of you will remember when, you know, the early days of NAFTA and a lot of the bilateral agreements, these were regarded as actually undermining the multilateral system and seen as Balkanizing. And the hope was that somehow you'd make progress on one and then eventually they'd be applied. In my opinion, that really hasn't emerged. But in any event, do you—do you foresee a bilateral strategy? Do you see the administration as aggressive about implementing one? Or something else?

**MEIMAN HOCK:** I think they're pretty clear that they don't want to do multilateral deals. And if the renegotiation/modernization of NAFTA and how that's gone thus far is any indication—(laughs)—it's not clear, you know, what they hope the result of that NAFTA renegotiation might be. I think that came up clearly in the panel that you all did this morning. I think that the rhetoric supporting bilateral deals will likely remain. You know, the reality is, though, until we deal with whatever it is we decide to do with NAFTA and whatever it is that we decide to do with KORUS, with the U.S.-Korea trade agreement, there's just not going to be a lot of bandwidth in the building, in USTR, Senate Finance, Ways and Means, et cetera, for much more than that. It's sucking all the oxygen out of the room.

**ALDEN:** Scott, do you want? Yeah, please.

**PAUL:** I was just going to say that—you know, I mean, from a year ago, clearly, we're in a different world, whether it was TPP and possibly TTIP. Sort of there was this broad kind of at least regional expansion, and now it's about renegotiating NAFTA. I think you can add Korea to that list. I do think—and this is an instinct rather than, you know, based on anything I know for certain, but I do think that this administration will seek out deals with—on a bilateral basis with other countries. Like, Japan, China, how effective or broad those are, I do not know. It's not going to look like a traditional kind of free trade agreement negotiation. But I—that's where I see the emphasis as being.

**ALDEN:** Other questions? John and then we'll go to you.

**Q:** It was depressing listening to the panel I was participating in this morning, but I'm finding this one is living up to the same expectation. (Laughter.)

**ALDEN:** We're counting on the WTO director-general to raise us all up at the end.

**Q:** And you're kind of stuck between this narrow thing about trade remedies, and then these glimpses at the broader picture of what's happening to U.S. trade policy and its stake in the WTO. I must say—I'm going to say something, and then I'll ask a question. So I think that this fight over the appellate body, which may have started earlier, is really very serious. We're down to, is it, four members now, could be three by the end of this—sometime next year we might be below three. You need at least three to sit on a case. Already given the workload, it's extremely overworked. You know, by the time the latest spate of U.S. cases go through the system and China appeals them, it might take—maybe there won't be appeals any longer. I mean, the system simply will not work without a functioning appellate body.

So my question is, do you think the United States cares about this? And at what point is the business community going to become sufficiently alarmed that their sort of rights under these agreements in foreign countries can't effectively be enforced by the United States, that they may call for a change in policy?

**ALDEN:** Do you want to tackle that one, Chad?

**BOWN:** I think they absolutely should care about it. How we make the case to them that they should care about it, I don't know. So I've spent the last year trying to do it through every means that I know how. But it doesn't seem to resonate with the administration currently. And, you know, so you try to explain that it's not even the counts of cases. It's all the cases that you don't have to bring because countries for the most part are following the rules out there, right? If all of a sudden we don't have a functioning dispute settlement system, then countries don't have to follow the rules. And other countries do stuff that's a lot worse than what we tend to do in the United States, because what we do in the United States is incredibly transparent and has to go through this democratic process, usually. In other countries, not as much. So I'm very worried.

**MEIMAN HOCK:** No, I agree. And as far as the private sector, I mean, right now there's so much going on that, you know, frankly, it's difficult to know what to focus on. So, you know, do you focus on NAFTA renegotiation? Do you focus on the threat of KORUS withdrawal? Do you focus on the threat to the appellate body? Do you try to get tax reform through? There's a lot of dynamics out there. And so I think what you're seeing is an adjustment to what seems to be the Trump administration policy of throwing a lot of spaghetti at the wall at the same time, of seeing unpredictability as an advantage. And right now, I think that the private sector's for the most part getting itself organized around that new reality. But I do share your concern, obviously, and hope that that can be a point of focus sooner rather than later.

**ALDEN:** Can I ask one variation on this? And, John, maybe you'd like to respond too, from your time in Geneva. If the United States really is pulling back from its commitment to these dispute settlement procedures, can the rest of the world preserve them in some way? Is there—is there a sort of without the U.S. option for maintaining a reasonably stable dispute settlement system? That may be a question without a good answer.

**BOWN:** I don't know. I mean, we're such a big player. I mean, we've had episodes of other countries just leaving. You know, I think of Argentina and periods in which they just went off into the corner and we just sort of let them do their thing, and then—now, can you do that with the United States and have the system still function and everybody else agree to pay by the rules? I don't know. I'm less optimistic.

**ALDEN:** John, do you want to—wait for the microphone. I'd just be interested in your thoughts before going on to the next question.

**Q:** Well, two things, quickly. One is—

**ALDEN:** Ambassador Weekes was the Canadian ambassador in Geneva. When was that?

**Q:** From 1995 to '99, to the WTO. And previously during the Uruguay round also, actually.

**ALDEN:** OK, great. So right after—(inaudible). Yeah, yeah, yeah.

**Q:** What was the question again?

**ALDEN:** The question was, is there a rest of the world option, right? If the U.S. is really, you know, pulling out of these dispute settlement arrangements, can the rest of the world keep them functioning in some ways, without active participation of the U.S.?

**Q:** I think it's next to impossible to see the rest of the world making them function without the United States. And of course, it's not just that by holding up on the appointments the United States is also making the system not function as between the other parties, putting the United States to one side as well. So that's a serious—the only thing—and this is an absolutely crazy idea. But, you know, who knows we might get crazy ideas, was thinking back to when we actually formed the WTO. Basically, we said we're going to get rid of the GATT and everybody's going to join the WTO. Well, maybe we could look at doing the same thing, and say: We're going to get rid of the WTO and everybody who would like to is free to rejoin it. And maybe the United States won't.

**ALDEN:** Interesting. (Laughs.)

**MEIMAN HOCK:** Don't give him that idea. (Laughter.)

**Q:** But I don't—I don't know. But obviously nobody wants that to happen. So there really isn't a good answer here. I would say one thing, though. I think the concern about overreach by the appellate body, that has been reflected in U.S. thinking as you were laying it out, that's not entirely unique to the United States. I mean, I think there are examples of this in other countries too. You know, so you can make an argument about that. So you can ask the question, well, what ought to be done about that? I don't think anybody really wants to ask the United States right now: Well, what should we do to fix

your concerns? Because we might not like the answer. But I think there's some scope for some sort of discussion on that.

**BOWN:** Well, it also means too that the system's working a little bit if everybody feels a little bit aggrieved because of it, and nobody feels that they're the ones being singled out. (Laughter.)

**MEIMAN HOCK:** That's right. But, you know, the challenge is that a lot of these structures do need modernization. You know, that's—does NAFTA need to be modernized? Absolutely. I would say, parenthetically, that's why we did TPP, but OK. But here we are. **And does the WTO and appellate body need to be modernized? Absolutely. But in this political moment it's terrifying where we'd land.**

**PAUL:** Yeah, I just want to—without taking us asunder—to say that, you know, if I were the—I'm speaking to the U.S. business community that primarily focuses on exports and all of that. If I were them, I would desperately want to, instead of persuade the administration, oh, just forget about your concerns, go ahead and participate in restocking the appellate body, it's like let's develop a plan with like-minded countries. I mean, if—whether you say it's a bias or just the facts that folks bring more trade remedy cases against the United States than any other country—I mean, we're adversely impacted by this. And I think I do make—I think it does make sense to see if there is kind of a coalition of countries that could find a way through this reform, because I—you know, there is a strong belief that there has been overreach. At the same time, you've heard it expressed here how incredibly difficult it is to make any changes at the WTO. And so, you know, I don't think the solution is to withdraw, but it can't be, well, let's restock and worry about this later.

**ALDEN:** Sure. Just one more comment from Ambassador Weekes.

**Q:** Yes. I must say, for years, since I was ambassador—and so for a long while I've been very surprised that no country has ever asked the dispute settlement body to reject a finding of the appellate body. Now, I would require negative consensus to get that

adopted. But it certainly would send a different level of signal about the concern involved in that decision. And to the extent that country was able to get a few other players to line up with it and say we support the concerns of, you know, whoever it is, maybe the United States, that would do this, I think it would start to send a signal also to the appellate body. Because the appellate body is not immune to outside thinking about its role. But nobody's ever done this. And I find it kind of surprising because that technique is available and would carry a much stronger signal that merely standing up after a report is adopted and saying what you don't like about it.

ALDEN: Sounds like there may be scope here for some constructive alliance building. We've got the WTO director-general last, so maybe somebody can ask him the same question.

Irv, you've been waiting patiently.

Q: You may be cautious. Irving Williams, U.S. International Trade Commission.

In many respects you've already addressed my question. But let me just elaborate on it. To the extent that there's a lot of the active users of countervailing duty laws have been developing countries and using those against each other, I was just wondering whether or not—and there have been a number of WTO disputes among those countries that have actually gotten resolved. I saw some statistic a couple of years ago about just how many cases had gotten resolved that didn't involve the U.S. So I was just wondering whether you want to comment on the importance of that going forth, because someone made the comment that if we're not there it won't go ahead. And then I guess the question of resolution. You know, usually legislative fixes in the WTO come in the context of a multilateral trade round. And so I guess the question, can we do anything without having a big round?

**MEIMAN HOCK:** Just one quick comment. Irv, thanks for the question. Is, you know, even if a dumping case is between two developing countries, I think it still can be hard to find a case that doesn't have some element of U.S. interest, just because our multinationals are so big. And I know myself, personally, I've worked on a bunch of dumping cases that would involve a Latin American country and an Asian country, but with U.S. company interest. So, you know, I think that, you know the world is so integrated now and supply chains are so integrated that the actual country of origin of an item isn't always telling of where the economic interest really lies.

**Q:** And the briefs are often written in Washington, so we do have an economic interest in these things. (Laughter.)

**ALDEN:** I guess, Chad, Scott, you want to give us a way out of this? Is there—is there a way forward?

**BOWN:** Well, I mean, I think what that also speaks to is that, yes, these things happen. But it's also working within a system, right? And it ends up getting resolved. And I think what the—what the most underappreciated function of the dispute settlement process—and this gets back to Ted's point about trade wars and us throwing around those terminology quite loosely—is these things never escalated into trade wars, right? These bilateral frictions between countries over product X, you know, stay there. There's been a handful of cases where retaliation has been authorized, even fewer where it's actually been implemented. But it doesn't spill over. We don't know what the world looks like if we don't have this WTO thing around, right? And that's what my big concern is. What rules are we going to live under without that thing to help discipline all the countries out there?

**ALDEN:** Scott, do you want the last word here?

**PAUL:** Just to the point of, like, vehicles for change, I think—and this is raising an interesting question that I'm certain will be the subject of a future panel in a year or two. It's like, when **trade promotion authority needs to be authorized**, I mean, that's another vehicle for a lot of these changes to take place in the United States. What that is

going to look like. And in this administration, because there's going to be a lot of—a lot of points of internal conflict. And I think that's going to be something to look out for as well.

**ALDEN: OK. I feel like this was another—maybe in the pattern of all three panels today. We've put more problems on the table than we have been able to resolve. We're at our time. We've got a 15-minute coffee break, and then we'll come back with Roberto Azevêdo, the WTO director-general. Thanks very much to our panelists. (Applause.) (END)**