

Nina D.: ... so that everybody can interact with our high-level guests here.

Nina D.: Without further ado, I think I'll start. Over the next hour, we're here to talk about the concept of trade disrupted within the context of this year's theme for the Brussels Forum, a world disrupted. One of the things that has been the most disruptive over the last year or so, and potentially for the future, is the trade dynamics, in particular with the specter of a trade war between China and the United States. We now live in a world where even big super powers can have a huge impact of the future of thousands of peoples' lives. Allies as well are facing trade tensions as well. Big questions remain about the future of organizations like the World Trade Organization.

Nina D.: Of course, I haven't mentioned the new landscape that the digitization is going to be bringing with the upending of millions of peoples' jobs who are going to be changed and digital trade policy that we should be looking at in the years to come.

Nina D.: Without further ado, let me introduce my illustrious guests. We have, here on my left, Ambassador Dennis Shea, who is the deputy trade representative of the United States, and the Chief of the Mission to the World Trade Organization in Geneva. On my right, Sabine Weyand, who's a figure many of you here in Brussels will recognize, fresh from the Brexit Task Force. I believe this is your first public appearances. Director General for Trade of the EU Commission. Obviously taking on the helm of that enormous brief at a very interesting time, both transatlantically and, as a Brit, across the channel as well, I should say, with Brexit on the cards too. And Victoria Espinel, who is President and CEO of the BSA Software Alliance; somebody who many people in this room may also recognize as a 10 year veteran of the White House, having served both Republican and Democratic administrations. You were trade representative negotiator yourself for intellectual property.

Nina D.: So, we have a very balanced panel here to talk about these key issues. I will try and bring in the audience as soon as possible. I urge you also to tweet me questions as well while we continue our discussions.

Nina D.: Ambassador Shea, I presume that the first question probably should be coming towards you.

Dennis Shea: Why am I not surprised?

Nina D.: Because your President will be speaking in Osaka in about 24 hours to potentially diffuse one of the most tense trade wars that we've seen in the best part of 70 years.

Nina D.: When we're talking about trade disrupted, a world disrupted, obviously the United States has played the biggest role in this over the last year. What's the end game? Why? What's the strategy?

Dennis Shea: Well, do I get to stand up-

Nina D.: You do.

Dennis Shea: ... and walk around so I can be like a professor here? I'm a tough grader, so folks should know that. No.

Dennis Shea: Well, yes. Like everyone else, I'm waiting to see what the results of tomorrow's discussion between President Trump and President Xi will be. But you should understand that the 301 action that the United States took against China should be put in context. It follows years, if not decades, of discussions - bilateral engagement - with China over U.S. concerns about unfair trade practices and industrial policies that are trade distorting. We've had the JCCT, the strategic and economic dialogue, all sorts of different configurations about how to deal with these issues. In some instances we got some good commitments, but they were not followed through. We've also worked at the WTO. We've brought, I think, 23 cases through the dispute settlement system against China, but we're not achieving the results that we want.

Dennis Shea: I'm going to be like everybody else; tuned into the TV, tuned in on the internet to see what the results of the discussion tomorrow are. But I think it's very important to understand the context in which the 301 action, that you call trade disruptive, was taken.

Nina D.: It's not just China, though. It's also the European Union that the United States is having a beef with. So it's fighting on both fronts.

Dennis Shea: Well, yeah. We have some concerns with the European Union. We are discussing these concerns. I've been to some of those meetings with our European friends. But we are also working together. The European Union and the United States and Japan are working together to deal with the challenges of non-market economies through the trilateral process.

Dennis Shea: One of the problems that we saw was the fact that there's an absence of rules around industrial subsidies, state enterprises, forced technology transfer. So we are now in working with the EU and Japan to come up with rules around those issues. They're based upon the challenges that a non-market economy like China has posed.

Nina D.: Sabine Weyand, obviously you've taken on the mantle of this job just at the time when all of this is coming to a head. We've got the transatlantic airplane dispute and the retaliatory measures hanging over the EU's head and vice versa. What do you want to bring to this job? Will you be conciliatory? Will you be combative?

Sabine Weyand: I think you have to choose what you're doing depending on what the challenge is. I think the challenge we have is to go back to the title of the sessions; not just

trade disrupted, but it's actually the global order as we know it hanging by a thread. I think that's what we see when we look at what's happening in Osaka, beyond bilateral meetings. If you look at the difficulties of getting to an agreement on the key challenges facing the planet, from climate change to international trade, you see what the problem is.

Sabine Weyand: I think what is new, in recent times, and that will then have to fashion our response to it, is that we have an increasing inter linkage between the geopolitical and the economic. So actually when we're talking about a trade war or trade tensions, what we are looking at is a rivalry for global leadership in technology and in security, which is carried out by the means of trade policy.

Sabine Weyand: So, what is the response to that? That is very difficult for the EU, because European integration has rested on a separation between the geopolitical and the economic. We have to up our game. It's not a matter of being conciliatory or combative. It's a matter of being assertive. I think we now live in a world where we have to define what is the system in which we want to live. So we have to up our game.

Sabine Weyand: We have a double strategy with the U.S. We have a positive agenda. It's the largest economic relationship. The U.S. is a key pillar; has to be a key pillar of any international order. But at the same time, we cannot be drawn into managed trade. EU prosperity and security rests on open trade and investment relations, and we have to defend those. That is why we agree with a lot of what Dennis said, what the U.S. is saying, about the challenges we face, about the challenge of integrating China into the world trading system. But we also see that the U.S. has been able to use the WTO to defect because they've won close to 90% of the cases you've launched.

Sabine Weyand: So we just need to update the WTO rule book. For the EU, it's neither being conciliatory nor combative, but assertive. I think as EU, we cannot be a lamb in a world of carnivores.

Nina D.: Many hundreds of millions of lambs in that world, though, and potential customers. We'll get to the issue of the WTO system and the appellate judges and so on and so forth, and the necessity to appoint them later on this year. But I just want to hone in on one issue that you mentioned. This idea of whether or not you unbundle issues when doing future trade negotiations. What's your thought on that?

Sabine Weyand: Sorry, I'm not sure what you mean by unbundling.

Nina D.: Biting off more than you can chew, rather than being focused.

Sabine Weyand: I don't know what you base that assertion on. For us, what is essential is a rules-based trading system. Now, the center of that has to be the WTO, and it is in need of reform. On the analysis of the reform needs of the WTO, we are quite

aligned with the U.S. actually. Where we disagree is on the concrete means of encouraging people to come on board for the necessary reforms. But at the same time, our bilateral agenda - whether that is with Canada or Japan or [inaudible 00:09:07]; currently in the last stretch of the negotiations, we hope - that also contributes to building building blocks for a rules-based international order. So you cannot segment that.

Sabine Weyand: We also have to make sure that these agreements are acceptable for the general public.

Nina D.: That's what I was coming to. But on the ground, politically speaking, those weren't easy sells to the average electorate.

Sabine Weyand: No, that is true. But what we have also seen is that, given the threats to the global order, a world disrupted; actually, I think this has reinforced public support for trade policy. While at the same time, we have been very attentive in the EU and in the Commission to being more transparent in what we are trying to do, and also strengthening the value space that is reflected in our trade agreements. That is the challenge, and that's the only way we can go forward on.

Nina D.: There's so many issues I'd like to discuss with you both in a second, not least a potential corporation between the EU, the United States, and Japan as another sort of front for reviving the wish for international trade deals.

Nina D.: But Victoria, I want to come to you and talk about the sort of future digitization. This is an area that some people say is not being given as much attention to. Because obviously the future will not necessarily be tariffs on aluminum, steel, and cars; it'll be on data and trade.

Victoria E.: I think the future is what we need to look to. So let's talk a little bit about data. Technology is a great disruptor. One of the impetuses of that is the dramatic increase in the amount of data that's being created. In fact, if you look at the amount of data that's being created, the amount is doubling every other year. To give that some context, there's an estimate that by next year, there will be 44 zettabytes of data in the world. That is as many bits of data as there are stars in the observable universe. It is an exponential increase. We already see the impact that it's having on the global economy, and we see the impact that it's having in society. It is the increasing use of all kinds of emerging technology from data analytics, artificial intelligence, blockchain, cloud computing. But we also see the impact it has on our day to day lives and how we live them. That change in our society and that change in our economy; it's going to have consequences not just for the trade agenda. That is one important thing. But for the sort of the international legal regime in general.

Victoria E.: I guess one thing that I would say is I personally reject the premise that the world is going to move away from integration. That's not to say that I'm

unaware of the tensions that exist at this moment, but I think if you look at the arc of human history and human experience, I think the world move towards integration. I think one of the things that's really important for us all collectively is to keep our eye on the long game. I think that is where the world will continue to move. I think as the economy becomes more integrated, and I think that is both inevitable and positive, even if there are a lot of tensions at this moment; I think it is inevitable, I think it is positive. I think what that will mean is that the international legal system is also going to need to move towards being more integrated or more consistent.

Victoria E.: I think short term, I think there are a couple of things that we need to do. I think one of those is to reject the notion of sort of zero sum economic mentality. But I think another thing, sort of picking up on something you said, is also to see whether or not we can focus on kind of specific issues or specific areas where we can try to drive towards consensus. We're not going to be able to solve every problem at the same time, but I think there may be some things - even things people would find surprising in this room - where we could drive towards consensus. I think that needs to be our long term objective, overall, is driving towards that international consensus.

Nina D.: This is a particularly hot topic in your sector, because obviously people sometimes use the cover of privacy issues as a tariff barrier, right? It's a barrier to being able to trade, some people in the digital area might argue.

Victoria E.: I would actually say - and I think this may be surprising to people in this room - I think privacy is one of those areas where we could actually drive towards international consensus in the relative short term. I realize that there's a view that there are vastly different notions and concepts of privacy, and that's not untrue. But I also personally am of the view that that is an area where maybe it's a five or 10 year time horizon, but in the relative short term, certainly compared to the arc of human history, that is an area where we can drive towards international consensus. I think there's a focus on it, in a positive way, that there hasn't been before. I would say that is one of the areas where I think the governments of the world should be actively collaborating to see whether or not we can come to maybe not identical systems, but sort of interoperable, largely consistent areas of consensus.

Nina D.: Sabine Weyand, would you like to respond to that? Because obviously the EU's done so much work on this subject.

Sabine Weyand: Yeah. I would tend to agree with that more positive outlook. I think the divergencies are exaggerated. They are real. If I want to simplify it, we have a system ... The question is who owns the data? We have different concepts here. I think in the U.S., it's privately owned by companies. In China, it tends to be state owned. I think Europe has developed a system where it is the individual that owns the data. Now, we have to bring these different approaches together,

and we have an opportunity with the ongoing e-commerce negotiations in Geneva.

Sabine Weyand: There are also interesting initiatives, like the Japanese initiative on data free flow with trust. I think that is what we need to build on. That shows, also, I think if we can manage that in Geneva in the e-commerce negotiations, I think that will show the relevance of the WTO for the 21st century. We have to update the rules so they are fit for purpose.

Nina D.: Out of all of those systems, is there one that you think that might become the prevailing one?

Sabine Weyand: I wouldn't want to pre-judge that. I don't think you should go into a negotiation with one part pre-defining the outcome. I think we have approaches which are interesting. We see that the EU approach, with the GDPR, is actually getting some traction. Which is not surprising, given that it is applied in a market of 500 million people. But you know, we will have to see what we can work with. As I said, there are interesting initiatives elsewhere with which we want to engage.

Nina D.: Ambassador Shea, obviously your country at the moment is focused on issues like aluminum, steel tariffs, potential tariffs for cars, so on and so forth. Arguments like national security. But data is also the future, isn't it?

Dennis Shea: Sure.

Nina D.: Digitization. Some of the U.S.'s detractors may argue that you're looking back, not forwards.

Dennis Shea: Let me just talk about digital trade, because there is probably the most ambitious digital trade chapter in the renegotiated NAFTA, now called the U.S. Mexico Canada Agreement; the USMCA. We have taken what we've done there and brought it to the WTO, and we're very active participants in the digital trade initiative or e-commerce initiative, plurilateral initiative at the WTO. Our goals are to achieve a high ambition, commercially meaningful agreement that's enforceable and with all participants assuming the same obligations. That's our goal. What we mean by high ambition, we mean we want to prohibit data localization requirements. We want to ensure this free flow of data across borders that promotes trade.

Dennis Shea: I actually attended a couple of the sessions last week. It was very interesting. It's being led by Australia, Japan, and Singapore. I told my colleague from Australia who's sort of one of the leaders of the effort; I said, "This was one of the more interesting conversations in Geneva." Because instead of people reading talking points and speeches to each other, there was actual interactivity. There was discussion about the various proposals put on the table. I was very impressed by the conversation that took place.

- Dennis Shea: But I think we have a long way to go. Countries like China have said that data localization prohibitions are off the table. They want to restrict across border data transfer. They're very concerned about internet sovereignty. So to square that approach with the approach I think we share in many respects with the EU, Japan, and others is going to be potentially difficult. But we'll see how it goes.
- Nina D.: What about this closer focus between the EU, Japan, and the United States, putting aside the kind of differences that obviously your countries have in the immediate with trade? How will that relationship shape up, and how much more commitment will you stick to it?
- Sabine Weyand: This is an essential part of working together bilaterally or with groups of countries which share a common objective. I think we have quite a big common agenda with the U.S. and with Japan, and we need to drive that forward. I think this is something which we will then have, because it helps to develop; you cannot develop rules immediately with 164 members in the WTO. You have to predetermine something, but then obviously we would like to involve others into that. We hope that we can, in the next few months, move forward decisively, especially in disciplines on industrial subsidies but also forced technology transfer. So I think this is a key building block for a rules-based system.
- Nina D.: Is the WTO still relevant today?
- Sabine Weyand: Absolutely, and I was encouraged to hear from Ambassador Shea that they want to have an agreement which is enforceable. That means that we have to make sure that the WTO dispute settlement system is up and running and can actually help to enforce rules.
- Dennis Shea: There's my segue.
- Nina D.: Well, wait. It's your country that's blocking the appellate judges in the WTO. You have till December to name them.
- Dennis Shea: Have folks heard about the appellate body? Okay, you're familiar. The U.S. position is incredibly clear and very straight forward, and our view should not be controversial. If the WTO is supposed to be a rules-based organization, then the appellate body needs to follow the rules. Right? What does that mean? It means the appellate body should issue its ruling within 90 days. It means the appellate body should not appoint its own members; that's up to the membership to appoint appellate body members. The appellate body should not insist that its rulings are precedent; binding precedent. The appellate body should not engage in fact finding. The appellate body should not be issuing advisory opinions that are unrelated to resolving a dispute. And the appellate body shouldn't be adding rights and obligations to members that are not in the agreements.



Dennis Shea: That's the position we've been taking. We've been making these points not for 16 weeks or months, but 16 years. Fortunately, some other members are beginning to understand the U.S. position and appreciating the U.S. position. I have to say, at the last General Counsel meeting, I was perplexed that the EU do not share our underlying concerns about the appellate body. That is very perplexing. We think the words are very, very clear in the dispute settlement understanding; what they mean. Just jiggling around with new words. If the old words aren't clear - which they are - then coming up with new words won't necessarily make a difference.

Nina D.: You say you've got a few countries on your side, but there's 160-something countries. Sabine Weyand, you're used to dealing with a smaller number of countries, 20-odd countries. But still, getting everybody on the same page is going to be difficult, and that's a long list of concessions you're demanding, so where's the middle-

Dennis Shea: Those aren't concessions. No, Nina; those are not concessions. That's what we negotiated, okay? This is what the agreement says. The agreement says decide cases within 60 days, but no event longer than 90 days. Beginning the 2011, the appellate body decided basically not to forego that rule; 43 of the 47 cases appeals decided since 2011 have been outside the 90-day rule. The appellate body's engaged in fact finding, but the rules say their actions should be limited to legal review of the panel decisions. So these aren't concessions. We're saying follow the rules. This is a rules-based organization, so follow the rules.

Nina D.: If indeed this argument is made, that the WTO isn't fit for purpose, where does the WTO go from here?

Sabine Weyand: Well, that's why we have to work through these issues.

Nina D.: How do you think you're going to work through these issues between now and December? That's six months.

Sabine Weyand: That is exactly the problem. We have made proposals already last year trying to address these challenges. On a lot of the analysis, we do agree. But where we have a fundamental difference is the assessment to what extent the appellate body has gone beyond its remit. That is a difference of appreciation, which however should not stand in the way of necessary reforms.

Sabine Weyand: Let's be clear; the reform agenda of the WTO is broader than just the appellate body system, or the dispute settlement system. We also need to look at the general functioning because people are not notifying what they are supposed to notify. We need to look at the negotiating function and revive that. For all that, we have made proposals.

Sabine Weyand: Now, as regards this appellate body crisis ... Because the problem is, of course ... The risk we face is that on the 11th of December, the system will stop



functioning because there are no three judges or arbitrators available anymore. So we have also started to say while we are engaged in this reform process and these discussions on which we are really also trying to engage as much as we can with the U.S. in order to address their concerns, we also have to look at the stop gap solution that protects members' rights in December 2019.

Sabine Weyand: Here we are looking at what we call an interim solution, where we are looking at mirroring the functioning of the appellate body system. We are not creating a separate system, but what we are doing is we are looking at using possibilities in the dispute settlement understanding of the WTO, where two members of the WTO can agree amongst themselves to apply arbitration procedures. That is not a long term solution. It's not a structural solution. It's a stop gap solution which at least allows people to rely on the WTO to enforce rights and give us the time to work out the structural solution, rather than encouraging people to try and resort to unilateral measures, which very quickly - as we are currently seeing - spiral down into trade tensions or trade war. I'm not a fan of the expression trade war; I prefer trade tensions, although they are pretty, pretty hostile.

Nina D.: And not to mention the perplexity with which other developing economies will be watching this panel at a unilateral level.

Nina D.: Victoria, is the WTO fit for purpose in today's digital age? Will it be fit for purpose if it stays as it is five years, 10 years from now?

Victoria E.: I was thinking about the phrase fit for purpose because you used it earlier. I think the WTO is an enormously important institution that should be supported by the governments that are in it. I think, like any institution, it's not perfect. So I think the reform initiatives ... I think every institution should be taking a look at itself once it's existed for more than a few years, and seeing whether or not it needs to be adjusted. But I think the WTO is important not just in its function of, for example, solving WTO disputes, but also as kind of a really important part of a general rules-based system. So I think it's important for its geopolitical implications as equally as for the sort of trade and economic function that it has.

Victoria E.: I think, going to kind of the future of the WTO and what it needs to be looking at, I would associate myself with the remarks of both Ambassador Shea and Sabine that the e-commerce initiative that the WTO has, I think is really positive. We'll see how far it goes, but it's really encouraging to see that the United States, the European Union, and others are highly engaged and having true, candid, and hopefully eventually productive discussions coming out of that. Because those are the kinds of issues that the WTO is going to need to increasingly focus on if it's going to remain relevant to the global economy.

Nina D.: Let's start taking questions. We've got half an hour. I've been checking on Twitter and a few of you in the audience have been a bit shy. This is one of the biggest issues of our day. Let's take a question from you sir, in the front row.

Obviously I'd ask all of our participants to clearly identify themselves and keep their questions as questions rather than statements.

John Emerson: Thank you very much. I'm John Emerson, and when I was ambassador to Germany, I was very involved in the TTIP negotiations. I guess my question vis-à-vis Europe is, what are the chapters that have been identified for this sort of new EU/U.S. free trade agreement? The Trump-Juncker kumbaya meeting suggested industrial products, automobiles, and maybe some regulatory conversions. But beyond that, and in particular, how on earth can we negotiate an agreement that does not include agriculture? The ambassador is well aware of the political challenge of that in the United States. My understanding is that the EU has said no agriculture. That's my question. Thanks.

Dennis Shea: Well, I totally agree with you on agriculture. My boss, Bob Lighthizer, testified before the Senate Finance Committee in Congress last week. Chuck Grassley, who's the chairman of the Senate Finance Committee, from Iowa, who's a farmer; he said there can be no agreement unless agriculture is on the table. So that's the political reality in the United States.

Dennis Shea: But we are talking about other issues. Maybe you would like to, Sabine, talk about that.

Sabine Weyand: Yeah. Thanks, Dennis. Thanks for the question.

Sabine Weyand: Look, I mean, we have to draw some lessons from the TTIP experience. We cannot pretend that we have not tried; we didn't succeed. So we need to look at, how can we move forward? On either side, we do not have the conditions in place to have a fully fledged free trade agreement covering essentially all trade. We have an agreement between the two presidents on a certain agenda. We are committed to taking that forward. We are ready to engage on this, and we hope that we can build trust in this process by delivering certain elements of it. We already referred to conformity assessment, regulatory cooperation. Again, this links to the theme of our session here today, which is the global competition for who sets the standards for the 21st century. We have an interest, as EU and U.S., to work together.

Sabine Weyand: But you say agriculture; we say public procurement. The U.S. has explained that the Jones Act, the Buy America Act, is off limits. Under these conditions, and also given that - and here I come to the political conditionality in the EU in order to get free trade agreements approved - we have a clear conditionality linked to the Paris Climate Agreement. That is not where the U.S. is at the moment. These are the constraints in which we work, and we have to build a positive agenda and deliver on that that takes into account these constraints. Maybe we will be able to do something more comprehensive in the future, but I think the main thing now is to build the trust by delivering at least on some issues rather than remain blocked and have the disputes - which we also have and which we have to manage - hang over the whole relationship.

Nina D.: Sabine, can I just-

Victoria E.: Can I add on to that?

Nina D.: Mm-hmm (affirmative).

Victoria E.: Understanding the political complications that exist, but I would just like to put another issue in the mix. There's agriculture, there's procurement, there is digital trade. One of the topics that we're talking about today. The U.S. has been a real leader in digital trade; the provisions of the USMCA that Dennis referred to earlier are, I think, groundbreaking. Japan, as you mentioned; Prime Minister Abe has been very focused on digital trade. Whether through the mechanism of a trade agreement - which is one mechanism but not the only mechanism - or something else, I think having the United States and Europe - which has done some thinking on privacy, but has been the less overtly active on digital trade; having the United States and Europe come together to work on digital trade, I think it would be not only enormously beneficial, but also honestly seems kind of seems like an absolute no brainer given the importance to the global economies of both.

Victoria E.: So, I guess this is more of a request than a question. But I'll take this opportunity to publicly request that the United States and Europe partner together on digital trade. I think it makes sense for all of us, and would be enormously beneficial.

Nina D.: Is it something you'd commit to?

Dennis Shea: Well, I mean, we're working in the context of the plurilateral in Geneva. At the WOT, I'm listening to my European Union colleague make his points, and he's listening to us make our points. We'll see how this process unfolds in Geneva.

Nina D.: Can I just pick up before on what we were talking about, when the discussion veered towards climate change? Now, any future trading agreement really has to acknowledge the increasing demand, especially among the younger generation, to combat climate change. How much of a big part of future, all-encompassing trade policies is this going to be?

Sabine Weyand: We have already progressively moved towards reinforcing the link between trade and sustainable development in our trade agreements. I think we have to build on that, especially as regards climate change; climate action. I think here we are looking at different elements. We should also not have the idea that trade can resolve the climate emergency. That's not going to happen. But we need to look at what is the impact of trade on the climate situation. And secondly, what are measures we can take in order to contribute to solving the climate problem?

Sabine Weyand: So that is a reflection that is currently ongoing, which I think will be very prominent on the agenda of the next commission. It features prominently also

in the strategic agenda of the European Council. The European Parliament is very attached to that. We need to look at, can we revive negotiations on environmental goods, which failed in the WTO? Can we look at environmental services? Can we look at technology transfer agreements, et cetera, which would contribute to climate action?

Nina D.: Ambassador Shea, what kind of partner is the U.S. going to be in this?

Dennis Shea: Well, I want to pivot a little bit to another sort of environmentally-related issue which is front and center at the WTO. That's the depletion of the world's oceans' fish as a result of subsidies. This is the only multilateral negotiation going on at the WTO today. Okay? We are required, pursuant to our ministerial directive, to have a negotiated outcome by the end of this year. The U.S. has been active on this issue. We've submitted proposals to prohibit subsidies for illegal fishing, prohibit subsidies for high seas fishing. We've proposed a cap proposal for subsidies that contribute to overcapacity in fishing. So the U.S. has been a leader in fighting for an ambitious agreement, which we're supposed to get done by the end of this year.

Dennis Shea: I'm just mentioning this because I have said before, and I'm borrowing it from Ambassador Zapata who's from Mexico who's leading this effort at the WTO; it's not just that the WTO is going to save the fish. The fish are going to save the WTO. Because if we don't have a negotiated outcome on this by the end of the year, it'll be a major black eye for the WTO as a negotiating organization.

Nina D.: That may be a noble project, but it's not the all encompassing green climate change initiative that future members of the electorate will be looking for in these trade negotiations in any future trade deal that they feel they could believe in.

Dennis Shea: Well, we have a democratic process in the United States. Those voters will put pressure on our leaders if they want to see that in trade agreements.

Nina D.: Let's take some more questions. I believe we have a question here, and then we'll take your question as well, sir.

Simon Fraser: I'm Simon Fraser from Flint Global. I wonder if you could say a bit more about the mechanisms of trade negotiation that you think are most effective these days. In my country, which is the UK, we're having a very simplistic debate about free trade agreements at the moment, and the potential benefits that they would bring to our economy after Brexit. On the other hand, multilateral, global trade negotiations seem to be nonproductive these days. They're so slow. I was involved in negotiating the [inaudible 00:36:28] and we didn't get anywhere. There's increasing talk today about plurilateral agreements and normative agreements rather than rule-setting agreement. For example, in new areas like digital.

Simon Fraser: So what are the most effective mechanisms looking forward that you foresee for actually delivering results that have an impact, with a sufficient international scale to actually take forward some sort of multilateral system, even if it's not within the formal WTO all embracing format?

Sabine Weyand: First of all, the priority for the EU remains the multilateral trading system. Now, with the difficulties that you have lived through yourself, I think we need to use more and more the flexibilities that we have in the WTO, and that is the plurilateral root. There we have to see what our agreements ... We want to have this form of open plurilateralism, where you start with those who are carrying an issue, but you keep it open for others to join. Obviously depending on the subject of the negotiations, you need to have a critical mass of participants. Take a digital trade agreement in the WTO. Would that really make sense without China? That's a question we have to ask ourselves.

Sabine Weyand: Then the question is, what is the flexibility we need also in terms of contents of an agreement? Because obviously with a plurilateral, if you apply it to everyone - which you have to do when you're talking about tariffs - you have a free rider problem. In a normative negotiation, that is less the case. But still, you have to deal with that free rider problem in the plurilateral context. So the question is, what is the balance you strike between trying to have a critical mass of people on board, and what is the price you may be willing to pay in terms of differentiation in commitments between participants in order to have a foundational basis that brings as many people on board as possible?

Sabine Weyand: I think we need to be creative in the way we work with plurilateral agreements in the WTO. That, for me, is the way forward there. But that should not be to the detriment of multilateral negotiations where they are possible.

Sabine Weyand: Now, in terms of the bilateral negotiations, they can be building blocks for a rules-based system, but they are clearly a second best in this respect. They work best between countries which have a complimentary economic structure, so you need to look at whether it makes sense economically. But also whether, on the normative side of it, there is a convergence of us. Then it can be helpful.

Sabine Weyand: What is also quite clear is that size matters in trade negotiations, so one should not have illusions about what you can do as an individual country in the world of today.

Nina D.: Ambassador Shea?

Dennis Shea: I think all of the above was my initial answer to your question. Multilateralism, plurilateralism, bilateral arrangements; at times, unilateral action if necessary. At the WTO, there's the consensus principle, so nothing gets done unless all 164 members agree. You know this, but you can imagine how difficult that is to reach agreement to get unanimity essentially among a very diverse membership.

Dennis Shea: So, I agree. The U.S. is very active in the digital trade plurilateral; we support that. We have gone out and renegotiated the KORUS - Korea/U.S. trade agreement, we've renegotiated NAFTA, we are in trade negotiations with the EU and with Japan, and we've laid the groundwork for a trade agreement with the United Kingdom once the UK leaves the EU.

Dennis Shea: I guess I'll go back to my initial thought; all of the above. All of these approaches make some sense, depending upon the situation.

Nina D.: Victoria, can I ask you to answer Sabine Weyand's perhaps rhetorical question - forgive me - about whether or not it would make sense to have a digital trade talks at the WTO without China? What do you think?

Victoria E.: Yes.

Nina D.: And why?

Victoria E.: I'll answer not just with respect to China, but more generally. I thought you did an admirable job of summing up the balance between trying to bring in as many countries at once, and then the compromises that are inevitably in doing that. I would say my own personal view is that it is better to start with a smaller number of countries and aim for a higher standard than to start very, very broad at a lower standard. I see the pros and cons of both. I think it's also more feasible, just from a practical point of view as well as from sort of philosophical point of view. I think that's what makes sense.

Victoria E.: So therefore to your question, I think it would make sense to start with agreements that maybe didn't include every country, every economy in the world, even major economies, so we're at a higher standard if it's possible to find consensus in those areas. That would be my view on that.

Nina D.: Can we start the TTIP that way?

Victoria E.: The other thing I would say though, and I alluded to this before, trade agreements being an important mechanism but not the only mechanism. I think that may be particularly true in some of the normative areas, as you said. I think the U.S. and Europe governments should be looking to see whether or not there are other areas outside of trade agreements ... I want to emphasize I think trade agreements are an incredibly important mechanism, but are there other areas outside of the trade agreement mechanism where they can be working together to find consensus on normative rules, such as, for example, privacy?

Nina D.: Let's take a few more questions from the audience. Gentleman there, and I'll also take your question in a minute, sir. Let's take about two or three questions in one go, and then we can-

Speaker 7: Thank you very much. [inaudible 00:42:45] with the Wall Street Journal. Question to Sabine and Ambassador Shea. I'm wondering if since Ambassador Lighthizer outlined this staged approach, and given the gridlock over agriculture and Congress's opposition to [inaudible 00:43:02] anything that doesn't have agriculture; would it be possible to start talks on industrial goods, get that under your belt but not move towards ratification, and engage maybe perhaps with another July statement like agreement on the next step to build towards a greater agreement that includes public procurement and agriculture and the two sides are both happy? Is this something on the discussions?

Speaker 7: A second question, if I may, on the WTO. The EU now is trying to build this coalition of the willing use with Article 25 and keep the public body alive to an extent. The nonfunctioning of the appellate body would effectively take us back to the GAT days, where you have a panel ruling and then it's up to the parties to decide whether or not to implement that. Are you not concerned that you're effectively splitting the WTO in two; one in the EU model where you have the appellate body, one in the U.S. model which Ambassador Lighthizer seems to be a fan of which is the GAT system with no appeals process?

Speaker 7: Thank you.

Nina D.: Thank you. Let's take your question.

Speaker 8: Fraser Cameron, former European Commission. Sabine said that size matters in international trade, which could be interpreted as a reference to the UK. Who knows? Trump, when he was in the UK last month, said a deal with the UK could be done quickly and easily. Is this a view shared by USTR, and how far you in preparations?

Speaker 8: And for Sabine, you said you wanted to see a more assertive EU policy, which implies a more holistic approach encompassing other areas. Could you say a little bit more about how you see that?

Nina D.: Okay, thank you. Let's start by taking those questions. Ambassador Shea?

Dennis Shea: I will say President Trump obviously is very eager to have a phenomenal trade agreement with the UK once it exits the UK. There have been a lot of discussions between USTR folks and people in the International Trade Ministry of the UK. I think once the UK is in a position to enter into a free trade agreement, I think there's a lot of political will on the part of the United States to get that achieved. That's where I'll leave that.

Nina D.: Can I just quickly interject there? Sorry, Ambassador Shea. Political will in the UK, though, could be distorted by the fact that your own ambassador to London has said the NHS should be on the cards. All sorts of issues, that are emotive issues, for British citizens who voted for Brexit, may not necessarily share his point of view on. Are those on the cards?



Dennis Shea: I am not in the weeds on this issue. But I will say that there is tremendous political will in the administration, as well as in Congress, to have a U.S./UK free trade agreement. How that gets worked out, we shall see. And we shall see when the UK gets out of the EU.

Dennis Shea: With respect to your question, what Ambassador Lighthizer is saying is, "I want the appellate body to follow the rules." We have laid out an extremely detailed interventions at the WTO, each of our concerns. Together they're like chapters of a book that you could put together. We feel the language of the dispute settlement agreement is very clear. What's unclear about 90 days? What's unclear about limiting your appeals to the legal conclusions? What's unclear about this? So that's where we come from. We want the appellate body to follow the rules that we all agree to, if in fact we're a rules-based organization.

Nina D.: Sabine?

Sabine Weyand: On the EU/U.S. negotiations, we are impatient to get started on the negotiations on industrial tariffs, but also conformity assessment and regulatory standards. Hopefully that could create a dynamic on which we can then build for the future. Now, I don't want to go now down the rabbit hole of what would be the procedure for ratification of an agreement of which we don't even see the contours yet. But from our point of view, it is important to create positive momentum. I think we've started doing that. We are working together on an NG. We have a good story to tell on soybeans. We have now made the proposal on high-quality beef, et cetera. So there are things where we are moving forward, but we need to have traction for a wider agenda. That is what we need to create, and obviously that also requires that we get a handle on the conflicts we have, like Airbus Boeing. Where we should avoid going into a spiral of sanctions which just hurt both sides. So I think that is the challenge we have there.

Sabine Weyand: On the WTO, I think the challenge is now to move from the complaints to the solutions; to practical solutions. We are ready, as I said. We are ready and we have made proposals to address what we see also as problems with the functioning of the system as it is at the moment.

Nina D.: Yeah, but the question was actually about creating a two-tier system, wasn't it? Where people are acting in silos. It does sound as though there is some divergence on a number of the issues that you've discussed over the last 45 minutes.

Sabine Weyand: Yeah. Thank you very much for reminding me of that, because we are not doing a two-tier system. This is not a system that we are talking about. What we are talking about is a stop gap solution of bilateral administrative arrangements between WTO members, which can either be just about a precise dispute that is already there, or two parties can agree that in current and future disputes, they will apply these rules that is based on the current rules of the dispute

settlement understanding. But it is clearly not an alternative to keeping the appellate body system, the dispute settlement system up and running. It's not a parallel system because it is, at best, a network of bilateral agreements. That's what I wanted to say on that.

Sabine Weyand: Then there was a third question, which was-

Speaker 7: An assertive EU.

Sabine Weyand: The assertive EU, exactly. I think we need to ... And that will be very challenging for the EU because we are not set up for that; we've not been set up for that. We need to integrate much more our diplomatic tools and our external economic relations tools. I don't want to talk just about trade policy; I want to talk about the external projection of the internal market in all its dimensions. That, I think, is what the next college will have to do. We will have to find a way to integrate what are we doing externally in regulatory area, in financial services, we need to look at our sanctions policy. This is a huge challenge. But nothing better than external pressure to deliver on something that had eluded us for quite a while. But with the world disrupted and the multilateral system hanging by a thread, I think that should be enough of an incentive to get going.

Nina D.: Well, just briefly. Sorry, got to put my journalist hat on because the opportunities arise. Fraser Cameron mentioned the subject of Brexit. You're obviously fresh off the beat of the Brexit task force and now you have this bigger role in international trade. It's getting very close to a no deal scenario. We're here talking about the benefits of multilateral trade deals, but the UK is heading towards the end of the cliff. In your new role, where do you see that, and what's your latest political message to those who are fighting to be leader of the Conservative Party on the subject of Brexit?

Sabine Weyand: I think the best service I can do to the debate in the UK is not to try and address messages. I think that would be inappropriate and not well received. What I can say is that the EU and the UK have a strong interest in finding a new accommodation once the UK has left the EU. We will remain aligned on the outlook on the world. I think the EU and the UK will be partners for a rules-based international trading system. We have every interest in getting off to a good start. Now, no deal would not be a good start to building that future constructive relationship. But the choice will be the UK's, and we are ready to engage.

Nina D.: Right. Let's take a few more questions. We're going to move over to this side of the room. I'll take questions from you two gentlemen. Thank you.

Daniel: Daniel [inaudible 00:52:08]. I want to come back to the great disruption and the inference of China about which we heard this morning, and the importance it has for the United States. One, if you want, small aspect of it is the anti-China clause which the United States has been pursuing. And it has been able to get

Canada to agree to a little known clause which says basically that if Canada ever were to even start negotiating a free trade agreement with a non-market economy, i.e. China, then the United States would have the right to withdraw from that agreement. As far as I know, the United States has a similar negotiation objective with both the UK and the EU, and that's where size matters.

Daniel: So my question would be to ambassador; are you setting important equal trading objective for both? And to Sabine, of course, would the EU ever accept such a clause?

Nina D.: Let's ask you to take those, and then we'll take the next question. We'll take the next question afterwards, actually.

Speaker 10: Thank you very much. [inaudible 00:53:23] from Tokyo. My question is also to Ambassador Shea, about how to better deal with China. You said that the U.S. is talking with the EU and Japan about how to deal with China. But it looks like, for me, that U.S. is putting a big gun on the back of EU and Japan, and that is an automobile tariff; and also smile and shake your hand, and let's cooperate together on the China front. So if China is the highest priority for U.S., why can't U.S. just suspend - to put down, but suspend - demand on the automobile tariff to EU and Japan, and put the higher priority to better cooperation with EU, Japan, U.S., and put the pressure on China to solve the issue if it is highest priority?

Speaker 10: Because otherwise, this big crack; China can take advantage of this division. For example, in Beijing, I hear more discussion about the possible China's entry to a TPP, though Japan is skeptical about the possibility for China to fulfill. But if China start negotiation, maybe China can isolate U.S. maybe effectively. So my question is, how do you think of this?

Dennis Shea: That's a lot to digest. I'll just say, I work in Geneva. I work at the WTO. I have a very good working relationship, I believe, with my Japanese and my EU colleagues. I mean, we're working together. I've been a participant in some of the trilateral meetings, so I have a window into that. I don't see us forcing the EU and Japan to get into this trilateral arrangement to discuss ways to expand the rule book to cover industrial subsidies, forced technology transfers, data enterprises, and other issues. I think they see it as in their interest to do this. I don't agree with the premise of your question; the very, very graphic premise of guns.

Dennis Shea: Again, at the WTO, one thing that we are working closely on with the EU and Japan is a transparency proposal which is incredibly important to keep the institution viable. Too many members signed on to notification obligations and are not fulfilling them. So the United States, Japan, EU, and a collection of other countries are working together to encourage countries to fulfill their notification

obligations and provide technical assistance. But if they are willful and repeated violators, there has to be some sanction.

Dennis Shea: Where I sit, the EU, Japan, others; we have our issues, but we're able to compartmentalize them and work together and collaboratively on other issues.

Sabine Weyand: I tried to say that in the beginning. What we are trying to achieve is ... First of all, we have to recognize that the economic model of China is an enormous challenge for the world, and that the WTO system at the moment does not have the necessary disciplines to integrate China and create a level playing field that is essential for trade and investment to thrive. So, we need to update the rule book, and that's why we are working with the U.S. and Japan, because this is not anti-China; this is pro multilateral disciplines. At the same time, if we succeed in that, we hope that that will also convince the U.S. to stay in the multilateral trading system because it provides for enforceable disciplines that are in the interest of everybody.

Sabine Weyand: So that's the way we are working. I think we've been very clear in the past that we are not really going to move on the threat. But I'm not aware of any of these demands being presented to us. But I think we've said that we are not going to negotiate under the threat of unilateral measures, and that applies across the board. On the other hand, we also know that we are not encouraged in FTA negotiations with China for a number of reasons, but we are engaged in negotiations or an investment agreement with China. That is also moving forward and is, again, another way of creating rules for the global economy.

Nina D.: I'm aware that we're out of time. Can I just ask Victoria, last question to you, from two trade representatives from two of the biggest economic blocks anywhere in the world. As somebody who represents the digital industry, which is obviously the future, would you like to see big countries focus on any specific areas over the next five to 10 years? And perhaps as you alluded to in your question, put aside their differences and focus on the real issue at hand, which of course is China's economic strategy?

Victoria E.: I think more cooperation between the United States and Europe and among all governments on digital trade issues like data localization is enormously important. I said that before; I'll say it again.

Victoria E.: But here's another thing I think we need to start thinking about as we look to the future and going to a world disrupted. We've talked some today about existing tensions, and we've talked about kind of the elements of the legal mechanisms underlying the current trade institutions. But I think when we think about where the world is going and what technology is going to do to trade and we think about what's going to happen to global supply chains because of technological disruption - blockchain, additive manufacturing, or 3D printing - the whole trading system I think is going to look enormously different in 15 years than it does today. So while the elements of the WTO institution are very

important to think about and get right, and the trade tensions that we're facing today are real; the entire mechanics of how trade is actually conducted in the world are going to be upended. I think the governing officials that are focused on trade need to somehow both be focused on what's happening today, but also looking to the future and what kind of trading system, what kind of rules are we going to need in a world where trade is actually conducted in a way that is completely different than it's conducted today.

Nina D.:

With that, I'd like to thank our guests. Ambassador Dennis Shea from the United States. Also Sabine Weyand here from the European Commission. Last but not least, Victoria Espinel from BSA and the Software Alliance. Thank you very much to the audience. Please, of course, continue the discussion online and over the coffee break, which is about to begin now.