

Panel Transcripts

TO THE HAGUE AND THE BEYOND: THE SHIFTING TERRAIN OF
INTERNATIONAL CRIMINAL JUSTICE

**AFTER DOHA, AFTER WTO? RETHINKING TRADE AND ECONOMIC
LAW IN A FRAGMENTED WORLD**

WHO GOVERNS THE GLOBAL COMMONS? TECHNOLOGY, PRIVATE
POWER, AND THE NEW ARCHITECTURES OF AUTHORITY

After Doha, After WTO? Rethinking Trade and Economic Law in a Fragmented World

Lawrence J. Liu, Associate Professor of Law at Washington University School of Law. Prof. Liu introduced the panelists: Harlan G. Cohen, Rachel Brewster, Li Ji, and Desirée LeClercq.

LAWRENCE J. LIU

Good afternoon, everyone. I would like to begin with a huge thanks to the symposium organizers and to all of you for joining us this afternoon. I want to especially thank the students involved and all of you in the audience. We are all especially excited to be able to engage with you during the Q&A.

My name is Lawrence Liu. I am an incoming professor here at WashU Law, and it is my great privilege to be moderating this panel: *After Doha, After WTO: Rethinking Trade and Economic Law in a Fragmented World*.

The plan this afternoon is to structure this as a conversation among the panelists and then hopefully end with some robust Q&A. Before I introduce and bring in our panelists, I would like to do some table setting. As with all our panels, today, I would suggest that this is an especially important moment to be discussing these topics.

Indeed, the state of the world trading system stands at a crossroads. For decades, many had coalesced around a seemingly stable set of assumptions: Economic integration was mutually beneficial; trade could be separate from, or even help manage, geopolitical tensions; legal institutions, whether international or domestic, might play a key role in constraining state behaviors. I am sure it comes to nobody's surprise that times seem to have changed.

Trade wars dominate headlines. The current United States' president self-identifies as a so-called "Tariff Man." Unilateralism and regionalism are ascendant. And all the while, the World Trade Organization (WTO) and its dispute settlement body sit paralyzed.

This panel aims not only to diagnose where we are and how we got here, but also to hopefully point to some potential paths forward. This being a law school, we also hope to focus on what role, if any, law might play in that future.

With that backdrop, I am excited to introduce the group of experts we have on our panel very briefly. To my right is Harlan Cohen, a Professor of Law at Fordham Law School. Next is Rachel Brewster, the Jeffrey and Bettysue Hughes Distinguished Professor of Law at Duke University School of Law. Then we have Li Ji, the John and Marilyn Long Professor of U.S.-China Business and Law at University of California, Irvine. Finally,

we have Desirée LeClercq, Assistant Professor and Faculty Co-Director of the Dean Rusk International Law Center at the University of Georgia.

Collectively, they bring a wealth of knowledge on topics including economic security, the WTO and multilateralism, China, and trade's relationship with labor law and labor rights. It is a stellar group, and I hope you are as excited as I am to learn from and alongside them this afternoon.

With that, my first question – which I would like each of you to answer in two to three minutes or so – asks you to put yourself in your own shoes ten to fifteen years ago. What is one trade law issue you were focused on then and that you assumed would remain stable, and how, if at all, have recent developments challenged that assumption?

HARLAN G. COHEN

If I were to think back to ten years ago, the thing that clearly has changed that I did not expect to change (some now would say that they expected to change, but probably most wouldn't have) is the demise of the Appellate Body.

There were, even back then, complaints about it, but they felt like the normal complaints and tensions that you would have around a very effective judicial body. And it's hard to recapture the way people talked about the Appellate Body. It was not just the crown jewel of the dispute settlement system and of world trade law. It was seen as kind of exemplary and exceptional within international law as a whole – something that was exceptional that had to be explained, but also a model that everyone wanted to follow.

If you went back to, say, 2012, I think we all would have seen tons of papers where people would be looking at their particular field of international law, seeing that it somehow didn't work because it didn't have strong enough dispute settlement or sanctions, and saying we should add this to the WTO because if we add it to the WTO, it will now be effective. I remember papers like this on migration, on climate change, and on endangered species. There was a real sense that the Appellate Body was here to stay. But I think what we're learning now is how mistaken we were in various of our beliefs.

There are a few things that are telling here.

One, obviously, the demise of the Appellate Body was a harbinger of a kind of U.S. unilateralism that people knew was out there but didn't understand the depths of.

Two, it finally punctured certain myths that we might have had, that we all shared common understandings of what trade law was for, that it was primarily for stability and predictability. I think we're finding out there's more contestation there.

But three, it is sort of a harbinger of what we're seeing now in that it's not just necessarily a movement away from rules, but really more a

movement away from institutions – a movement away from common, central fora for multilateral negotiation towards more ad hoc dealmaking.

RACHEL BREWSTER

Harlan just said what I planned to say – although he said it better.

I'll add a little bit about the Appellate Body. As legal scholars who do trade we all read Appellate Body decisions. We went to conferences where we were paired with economists, and we analyzed Appellate Body decisions together.

And there was an understanding that the Appellate Body was a robust institution, that even though states lost cases, everyone had more of an interest in having the international trade system continue, and no one was really interested in blowing that up, that the cost of blowing that up would simply be too high. And people were surprised when that happened.

Now, some states have gone on and formed what people have called the Multi-Party Interim Agreement, which is a number of states basically forming a shadow Appellate Body, such that they are still bound to arbitrate, although not in front of the Appellate Body, a very Appellate Body-like system that is meant to replace that. What I find surprising is how infrequently that has been used. It has only issued two decisions. And so, it clearly, even for states that say that they're still interested in the system, it has not been able to have the kind of interest in states using it the way that the WTO Appellate Body and the larger dispute settlement understanding system worked.

But let me kind of then take a step back – if you think about the WTO as a regime, it really was meant to do two things.

One, it was supposed to be a forum for negotiation. The General Agreement on Tariffs and Trade (GATT) had always had a number of rounds, and the Uruguay Round created the WTO. This panel is called "*From Doha and Beyond*" because Doha was the next round, which was not formed – in fact, people have called it "Do-ha-ha," the idea that it is never going to be concluded.

So, while, as lawyers, we loved the dispute resolution function and everybody followed to some extent, there was always an impossible pressure on it because no negotiations were finished. The only way to get new rules or to resolve issues concerning the meaning of rules was to take it to judges. The parties just could not clarify those things themselves.

Second, I want to focus a little bit on the negotiation. I think 15 years ago, I didn't anticipate that the Doha Round would be concluded. Everyone now recognizes that there are fundamental problems with having over 160 members and a consensus requirement for making a new agreement. If this current crisis has kind of shaken anything at the WTO, I think it's shaken loose the idea that there has to be more agreements being made, hopefully with the WTO as a forum.

I think there's going to be more interest in states agreeing to allow more plurilateral agreements, which will be non-consensus agreements.

This is a step back for the WTO, but the GATT had this. It was called GATT à la carte, where you could join some agreements or not join some agreements. And when the WTO was created, it was created under what's called the single undertaking, which is that everybody had to sign up to all of the agreements.

That has now proven unworkable. One of the changes we will most likely see is kind of a return to variable geometry, or this GATT – maybe WTO – à la carte approach to agreements.

LI JI

I don't have to repeat what my colleagues already said – I totally agree with them. Ten to fifteen years ago, I wrote papers on the WTO Appellate Body and dispute resolution mechanism. Back then, the idea was that China had to learn to play the game, and China might take actions to undermine the system because it was kind of structurally disadvantaged. The system operated in an English setting, and was adversarial. In many ways, it reflected the U.S. model of dispute resolution, which contrasted sharply with the Chinese dispute resolution culture, and so on.

For all those structural reasons, I thought China would find a way to establish an alternative system to better resolve trade disputes. Little did we know that eventually, it was the U.S. government that was going to destroy and neuter the system. So that was quite a shock.

At the same time, China is now seeking to support the status quo by upholding the legitimacy of the institution, and this is reflected in the interim agreement. China therefore still sought to resolve its trade disputes within the established institutional setting.

Thus, what the U.S. and China both did surprised me.

DESIRÉE LECLERCQ

Thanks, everyone. And just a quick thanks to Professor Durkee and the great students who have made this such an amazing event, and to the participants.

I'm the labor person, so my comments aren't preempted because I've been outside the mainstream WTO narrative. Since its inception, the WTO mistakenly decided that the rules and rights given to the labor component of trade – i.e., the workers who make trade possible – exist externally.

Ten years ago, I was a lawyer at the International Labor Organization (ILO), dealing with developments in trade. At that time, we at the ILO were interested in how governments were incorporating our international labor standards into their trade agreements – and how all of this was happening outside our building and outside of the WTO.

These trade agreements have, historically, baked certain procedural protections in their design. They would stipulate commitments towards workers and corporations, and if a dispute arose, the Parties would address it through official channels. Under these procedures, the Parties had to produce evidence, offer advance notice, and adjudicate the issue under a neutral review. For example, the dispute between the United States and Guatemala under the Central America-Dominican Republic Free Trade Agreement (CAFTA-DR) concerning Guatemala's labor rights commitments illustrates the formal processes and dispute settlement procedures between trading states. Those procedures helped to equalize the power imbalances between a powerful country like the United States and developing economies.

What I did not foresee ten years ago was that this somewhat equal structure would be completely upended through trade agreements. The 2020 United States-Mexico-Canada Agreement (USMCA) for the first time replaced the traditional state-to-state dispute procedure. Under USMCA, the US government can enter a Mexican corporation and determine whether it complies with Mexico's labor laws. If it finds a violation, it can impose immediate customs penalties without prior notice, judicial review, or due process protections.

In short, we shifted from a system where states were relatively equal players – where corporations actually influenced the agenda through powerful interest groups – to a system where strong states create and enforce the rules. Whether it's workers or corporations, they are at the mercy of what the powerful governments decide to do.

While we are seeing the collapse of the trade infrastructure, we are also witnessing governments seizing more power, which could harm the legitimacy of this system and negatively affect workers and corporations involved.

LAWRENCE J. LIU

Thank you so much, everyone. Those comments suggest a couple of things, right – how much things have changed in the last ten years; we will of course want to talk about that. They also surface a number of additional themes that hopefully we will be able to unpack a bit as well: themes related to unilateralism and power grabs, themes related to institutions and what they should have done or what dispute resolution ought to do, conversations about China, and also conversations about labor rights, domestic and international relations, and how those things interact.

That is a lot of topics! We will see how much we get through.

To start, one thing all of you seemingly brought up was how there was an optimism, perhaps ten to fifteen years ago, that international institutions or law would be able to do a lot of work. We could send things to a dispute settlement body, and that would work. All of you also seemed to suggest

that this is falling apart, so I want to talk a bit about the sources of this crumbling.

The first thing I want to bring up is this idea of unilateralism, or of geopolitics and national security. I am curious how much you see the source of this deterioration as rooted in geopolitics, power politics, and/or international relations, if at all. Harlan?

HARLAN G. COHEN

What's fundamentally driving all of this? The most basic thing driving many of these different phenomena is anxiety.

If you looked back ten, fifteen years ago – or perhaps even a little bit farther back – you would have seen a world in which the general pecking order of power relations was relatively stable. States generally knew where they stood and where they were likely to stand with the rules going forward.

What you're seeing now is that expectation has been upended. States are no longer sure where they fit in the global pecking order or where they *will* fit in the global pecking order.

There are a number of different causes to this. One is a growing multipolarity where, while there are still extraordinarily unfair disparities of wealth around the world, wealth has been more widely distributed in ways that change the nature of power relations and negotiations. More states can stand up to the leverage of powerful states. This is about China, but it's also about many, many other states who are now in a very different position.

That is compounded by the rise of things like climate change and new technologies like AI and the power of non-state actors, all of which also threaten to upend people's established understandings of where different states would be in the pecking order at the end of the day. All that has done is create massive anxiety for states. They worry about their future. They become much more competitive in how they see the world and the rules. And whereas the rules might have been seen by many of these states as a source of security, increasingly they may see the rules themselves – because they might hold them back – as a source of insecurity.

In many ways, it is that kind of anxiety that is driving this.

LAWRENCE J. LIU

A quick follow-up question to that, though: how new is this? Arguably, these kinds of tensions or the stress presumably existed before. Is it just a loss of faith in rules, or is it something inevitable in some sense as to how these things operate?

HARLAN G. COHEN

There have been changes in the relative power of these states over these different periods consistently. But what you have are periods of stability in

which general understandings of the rules are able to play out. And we're coming out of one of those periods of stability.

So just to pull back: one way to think about this is the entire post-World War II global order; legal order, as is built in many ways around the ability to draw a line between economy and security. That is sort of an assumption behind these trade agreements and the way they deal with security. It is an assumption behind the UN Security Council and its powers.

But that line was always artificial. You can't have a blockade unless you have military power to support it. You can't have military power unless you have wealth and access to resources. So, there is no real line there. And that line was fought over heavily in 1940s, 1950s, and 1960s.

What we have come into in the more recent period is a period where the North and West had won. We have a kind of post-1970s settlement where, when we think about that line, the space for the economy was very, very broad and created a very large permissive space for market powers when wealthy northern and western states controlled those market powers.

We had a much narrower understanding of security, one that basically reified northern and western understandings of what made them insecure: military power, weapons proliferation, terrorism, maybe drug trafficking. It did not instantiate or reify developing states' interest in things like economic coercion or financial collapse.

What we are seeing now is that this particular relationship has shifted. More and more of those states that once thought that they were secured by their notions of economy and security feel like those notions no longer work for them. They worry that the economy does make them insecure, and that's leading to this flux.

LAWRENCE J. LIU

So, I would love to invite any responses from the panelists, but I especially want to bring in Ji, because I think we cannot really have a conversation about geopolitics and securitization without thinking about China, which I know is his area of expertise.

LI JI

Most of what we are seeing is not new, actually. During the Cold War, there was a confrontation between two blocs: the Western Bloc led by the U.S. and the Soviet Bloc. But back then, there was very little economic integration. And the reason we are seeing this very complex mingling between national security concepts and trade decoupling is because the Chinese and the U.S. economies were, until recently, deeply integrated.

So, to decouple the U.S. economy from the Chinese economy, you have to engage in extensive state intervention. In the process, you also have to expand the concept of national security to include economic security. That's why we are seeing this conceptual expansion with national security

becoming increasingly inclusive. That, in my view, is one of the key differences between what we are observing now and the Cold War period.

Also, when we look at trade tensions, they tend to manifest in two ways. One is export control and sanctions. The other will be tariffs. Export control and sanctions are more closely tied to national security, whereas tariffs are less than.

Additionally, there's a difference between President Trump's first term and his current term. The first term, China was the main target, and this time around, President Trump is going against all the other countries, allies, or adversaries alike.

So where are we headed? Well, it's hard to say. If you look at what's happening at the institutional level, right now most of the neoliberal principle-based institutions are really under threat, and I don't think they will be reestablished any time soon.

In terms of interest, multinational corporations used to be beneficiaries and strong advocates for liberal economic order, but their voice has been subdued, according to what Desirée just described. This represents the fall of another pillar for the liberal economic order.

We also see strongman politics these days, alongside considerable uncertainty in the global economic order. This is a dynamic, fluid situation, and it is difficult to predict what will happen next.

Much depends, of course, on what President Donald Trump and President Xi Jinping will do. So, not only scholars, but also practitioners and corporate executives have to adapt to this new environment, focusing on how to mitigate the risk as much as possible, while much of what follows remains beyond our control.

This is also a good time for scholars to really engage in some sophisticated theoretical debate.

LAWRENCE J. LIU

I want to start bringing law and legal institutions back in. But before we zoom out to what international law can do, I want to ask what, if any, role domestic law might play in dealing with or constraining some of these securitization tendencies that both Harlan and Ji talked about.

In your remarks, Ji, I was struck: you talked about how it will depend a bit on what Presidents Trump and Xi are doing. You talked about how states will naturally expand their definition of national security.

What role, if any, does domestic law play then? Is it facilitating this expanding securitization? Is it doing any sort of constraining? Can we expect it to?

Then we will shift more international.

HARLAN G. COHEN

Some of you may know there is this important case before the U.S. Supreme Court with regards to the power of the president to issue various different tariffs and tariff threats under the International Emergency Economic Powers Act (IEEPA). That will tell us a lot about what role domestic law will play in all of this.

But there is a broader picture reflected here, which is the dangers, both internationally and domestically, of moving to a securitization framework.

Security as a political matter is a very, very powerful tool. When you start to invoke security, when you start to claim that certain things are matters of security, they change the politics of that particular issue. They create a kind of existential politics of that issue, which can be hard to control.

What you have seen over time is that many who wanted to raise certain issues to a certain level of importance have embraced security frames in order to put their issue on the table, to make it more salient.

But the risk is that you lose control of it once you do it. Once you put all these various issues – the big one we have to worry about here is not trade, but climate change - into the security frame, it becomes a matter of national existential concern that domestic politics no longer can constrain.

LAWRENCE J. LIU

What about what is happening in China?

LI JI

In China, the Chinese government basically duplicated the U.S. export control and sanction system. The Chinese government enacted a series of laws that will secure international trade and investment.

Why did the Chinese government do that? It was part of this foreign-related rule of law campaign initiated by President Xi Jinping. They wanted to make sure that there was a legal framework for government agencies to rely on when they deal with national security issues in the economic field. But, of course, as in the U.S., national security is this vague, broad, inclusive, and abstract concept, and the government agencies enjoy enormous discretion in applying the laws and regulations.

When the U.S. government began to treat Chinese companies as national security threats, there was some legal resistance. Lawsuits were filed by Chinese firms in the U.S. to challenge U.S. government authorities “arbitrary and capricious” application of national security regulations; there are about twelve or thirteen cases.

If you look at the trend, there were initially two cases: one brought by Xiaomi against the Department of Defense and another brought by a different Chinese high-tech company against the same agency. In both cases, the Chinese companies prevailed. The federal judge found that the

Department of Defense had engaged in capricious, arbitrary decision-making.

But right after that, the Department of Defense said, “We need more power. We shouldn’t lose.” Then Congress amended the National Defense Authorization Act and expanded the definition of Chinese military companies.

After the amendment, Chinese companies continued to sue challenging the Department of Defense’s decision-making. However, U.S. courts began to hold that their “hands are tied, Congress already made its decision.” Given the broader discretion granted, courts were required to defer to the Department of Defense. Since then, Chinese companies have been unable to prevail in U.S. court.

I then looked at U.S. companies in China. Some of these companies have been placed on the unreliable entity list by the Chinese government or have been subject to sanctions. Yet none of them have ever filed lawsuits in Chinese courts. Why? The reason is that, given the enormous discretion enjoyed by Chinese authorities, they likely did not anticipate winning the case. From their perspective, litigation would have been a waste of time and resources.

So, you can see that reactions to the application of national security regulations differ significantly between the countries because the institutional settings are very different. However, given the broad discretion enjoyed by government agencies in both sides, and the broader geopolitical rivalry, I think we will continue to see securitization of trade and investment issues in both countries. In the end, law is likely to play only a limited role in shaping these development.

LAWRENCE J. LIU

I am cognizant this is an international law symposium, and hopefully we will point towards hopeful things. So far, it seems like the bilateral domestic aspects are not bringing much hope.

So maybe we can zoom out further and think about multilateralism and what the multilateral system might be able to do. After all, that is what the WTO ideally was founded upon.

I would love to start with Rachel and then see if others want to jump in. In response to some of what Harlan and Ji were saying, can the WTO adapt to the shifts that we are seeing nationally? How are members responding to these developments, whether inside of the WTO or outside of it?

RACHEL BREWSTER

I want to start by returning to some of the issues that, Harlan raised. I agree with the narrative.

To understand this year’s crisis at the WTO, I suggest adopting a slightly different framework for interpreting the trade actions of the second

Trump administration – whether the “Liberation Day” tariffs or reciprocal tariffs, the IEEPA tariffs, or certain Section 301 and Section 232 tariffs imposed on states. I don’t think these actions are driven by national security or geopolitical considerations.

The narrative of how “we are now in a geopolitical rivalry with China, trade has to be amended,” fits much better with the Biden administration’s trade policy. There you see the Biden administration saying: “let’s bring our allies closer; let’s resolve any outstanding trade disputes we have with them; let’s try and get Europe on board; let’s make sure Japan’s on board, South Korea – and really then the concern is about China.” At that time, you see, someone like Jake Sullivan at the National Security Council taking over trade policy and saying, “we’re going to have all these export controls on China.”

And I think that that’s a national security framing, and how, if really, you’re concerned about a new geopolitical rivalry with China, that’s how your trade policy would support that.

But Trump administration has been using tariffs on everyone since January of last year. It has not been a narrative where we are pulling our NATO allies, or Japan or South Korea, closer. Instead, we are isolating them.

So, when we are trying to think about – and this relates to the crisis of the WTO now – what we are facing, President Trump is actually – though he’ll use the term national security – far more transactional. He just wants to maximize U.S. economic leverage with regards to everybody. He wants everybody to have a worse deal than they had before, and he’s not willing to compromise even if you’re a NATO ally or you are important to our military-industrial complex.

And this goes to a lot of what Harlan was saying earlier, which is this has created a huge amount of anxiety. People don’t understand how they fit into the system anymore. The European Union (EU), Japan, South Korea, Canada – they don’t understand what the rules of the road are anymore.

As a result, and to be clear, President Trump isn’t just doing this with regards to foreign allies, but to domestic corporations too. Now if you want anything, it’s about extraction from domestic corporations.

Some people have called it state capitalism or neo-royalism but my new favorite is predatory hegemony. It’s fundamentally an extraction model, which is: I have economic leverage. I’m not concerned about the long term. What can I get today?

And that that has now created a crisis at the WTO.

First it is a crisis because the WTO is fundamentally built on multilateralism: lowering tariff rates and binding them and then applying the same tariff rates to all other states are the major principles of the WTO. But now states are thinking: “We can’t have that. If the United States is

going to do this to us, we have to be able to respond. We need to be able to make deals with states other than the United States.”

And now there’s a much bigger push to say that maybe the WTO will still be an international institution, but multilateralism is cracking.

I find it notable that less than a month ago, the EU officially came out and said that they didn’t continue to support the most favored nation principle, which is this non-discriminatory principle with regards to other WTO members. This is really dramatic for the EU to say that, and so I think that’s really showing some cracking.

LAWRENCE J. LIU

Somewhat related to that, I would be curious, if that is the case? If we are moving away from multilateralism – you mentioned the MPIA in your opening remarks, the Multi-Party Interim Agreement – that was an attempt at multilateralism. I am curious about what kinds of legal or institutional arrangements are stepping in to fill these gaps, and how legal are they at their core?

RACHEL BREWSTER

One of the things we’ll see is there’s just going to be a lot less law. There’s going to be a lot more pushing, shoving, and seeing where it all settles out.

But one of the things that we are seeing at the WTO is that the U.S. basically, at least right now, has very little use for the WTO. They are not interested in using it as a forum basically for anything.

The WTO is trying to think: “How can we move? What will be our function? Does our mission need to change?” It’s now partly in allowing more plurilateral agreements.

I don’t want to get deep into WTO rules, but there has always been resistance to plurilateral - particularly India has resisted the idea that there should be some agreements that not everybody signs up to. And so, India has always blocked the creation of more plurilateral agreements. But I think that they’re going to come.

The WTO is still a good forum. Everybody goes there. It’s a good place to discuss trade issues.

People might discuss, all right, what are we going to do with the U.S.? What might we do with China? China is less open about what it’s doing, but it also can be economically coercive. So, states might use the WTO to ask how are we going to circumvent the largest markets.

Traditionally the WTO’s mission was to say let’s have MFN access to the largest markets. And now it’s how do we circumvent the largest markets and have other states reach agreements?

And so even if it is an unofficially WTO plurilateral, people might negotiate there and just form an agreement outside the WTO. If India gives up the objections, maybe there will be more official plurilaterals.

What will these look like? It could be an industry-specific agreement. So, for instance semiconductors: everyone recognizes there are national security concerns, there's interesting supply chain issues, maybe there should be a semiconductor agreement. Some states – not the U.S. and China, but maybe including the EU – will say, let's make sure we now agree on minimal terms for keeping our market access to one another.

You could have something that does not rise to the level of a Free Trade Agreement, but a kind of agreements on several goods, or just something on services, or just something on e-commerce that states other than the U.S. and China sign up for.

So, I think that you could now see the WTO becoming a forum for fragmentation rather than robust multilateralism.

LAWRENCE J. LIU

I want to invite responses to this idea of the usefulness of the WTO or what it is for. I also want to bring Desirée in because I know you are interested in WTO reform and the opportunities there. Then we will bounce to others as well.

DESIRÉE LECLERCQ

I want to take a step back first. We come to this table assuming that the WTO and multilateralism are good things and are preferable to state-led trade, but I don't think we've fully interrogated the reasoning behind our own priors.

I want to start by making the case for multilateralism before I argue for how we should return to it.

I don't agree with him on many issues, but Jans Klabbers is right when he says that multilateralism in international organizations is fundamentally about performing the work that states cannot accomplish on their own.

In other words, we don't support multilateralism just for its own sake. We support it because it serves a specific purpose. That purpose is to solve global issues that individual states can't resolve on their own.

Against that backdrop, if you look at the interwar and pre-war periods – specifically the 1930s and 1940s – we don't yet have a WTO. We have the beginnings of an international trade organization, but it's more like a sketch at this point.

What we do have are tariffs, right? We have Smoot-Hawley. We have a narrative around how we have to protect our fledgling industries and our workers by raising tariffs and protecting domestic sectors because each state has this domestic interest.

You see the raising of fences. You see the raising of tariffs. And if you go back and explore the conversations from that time, as I have, you notice a narrative that closely resembles today's. You see extreme beliefs about inequality, ideas of unfair wealth distribution that lead to populism, and a sense of aggression.

Back in the 1930s and 1940s, when we lacked a multilateral structure to facilitate these discussions and balance the various competing interests, war occurred. You saw what happens when nation-states lack a platform for dialogue yet still have deep-rooted interests in the well-being of their industries and workers.

Because that led to war, we have a somewhat, you know, begrudging acceptance that a certain level of power and discretion needs to be ceded to a multilateral framework to prevent violence.

You have the WTO established in the ruins of the International Trade Organization (ITO) to keep trade rules fair, so you can somehow preempt the type of aggression we see today.

It's no coincidence that we view the decline of multilateralism as a platform for dialogue at the same time that we observe a rise in similar types of aggression, narratives, and discussions around self-interest, which are leading to both physical violence and metaphorical acts of violence.

One reason we come and sit on this panel to discuss the virtues of the WTO is that, without that kind of multilateral platform, the alternative is very bleak.

HARLAN G. COHEN

I agree with everything that Rachel said. One thing I would say where we might be different – though I think you might agree with this – there is a way in which, first off, the Trump administration, while being a departure, is actually the apotheosis of all of these various trends, in the sense that what we're seeing in these moves is the final disintegration of any line between economy and security, or economic power and military power.

It is all just power, and it can all be traded off each other. It can all be used one for the other, and all that matters is maximizing that power. That's a big concern that I'll come back to in a second, something we have to figure out how to deal with.

Second, the WTO isn't going away, as you suggested. One of the interesting things here we see in U.S. moves is that they have not sought to withdraw from the WTO. They still seem to be relatively active in Geneva. And for other states around the world, they don't want to give away the default of having relatively stable and predictable tariffs and other rules that they can use for trading. It is no longer the center of gravity. Instead, it is going to be kind of a default upon which everything else acts.

Two other possible things might happen here that get to your notion of more plurilateral movement.

So, one thing we might look to here is other regions taking the lead. The conversation we are having right now is very transatlantic and transpacific. But if you look at trends in Africa and Latin America, they are not necessarily pointing in the same direction. And they might be the ones who now pick up the baton and take the lead on these various plurilateral trade agreements.

The flip side of this, what I worry about a little bit, is that one of the things that the Trump administration has done, in moving to these very ad hoc power-maximizing agreements (and this sort of, I would say, *carpe diem* foreign policy, where you kind of win the day, but you don't think beyond that) is they have sped up everyone's timeline.

Everyone is now thinking – I'm not making a deal for the future. I'm making a deal to survive today. That's kind of the opposite – or the negative – of law. In law, what we're trying to do is create a common future. We are trying to create rules for going forward, not rules just for tomorrow.

We need to figure out ways to encourage not just plurilaterals that deal with today's problem and inoculate states against various threats that are coming right this moment but actually are able to build something going forward.

The last thing I'll say goes a little bit to Desirée's point: To the extent to which we are seeing this disintegration of an idea that there is a distinction between economic and military power, we will just not need more rules, we will need entirely different rules - Rules that, rather than deal with economy or security, start to really think about an international law for competition, for competitive geopolitics, where all of this stuff is going to have to be managed.

RACHEL BREWSTER

I agree with Harlan. To the extent that there is conflict between our statements, it would be a question of what does security mean?

I can imagine the Trump 2.0 administration saying: We don't need NATO, they add nothing to our security. However, most military officials and generals would disagree and say: Actually, that's so much of our architecture, we do need them. So, there might be a question of how do we define security?

I also agree that it would be great if we could come up with rules for how to cabin these things, and, Harlan, your work has done this thinking about how to maybe cabin security or best practices for how to address security issues.

Right now, it just seems like there isn't a lot of appetite for this, however. Once you put the word security on it, it means there are no rules. You cannot possibly have any – even best practices – for telling us how to use U.S. when thinking about security.

One of the things that hasn't come up yet – is how the crisis has changed the psychology of trade.

I think particularly in an area like international trade, everybody assumes that it's just the economics; you think about what's the best deal, you maximize the best deal.

But states aren't responding that way, and voters in states aren't responding that way. You have this resistance to being bullied. Canada might be worse off not just taking whatever deal the United States offers them. But someone like Mark Carney getting elected on an elbows up campaign; we are going to fight back! And that has popular appeal.

And so, I think that even in something that's so economic like trade, there is such deep national psychology and ideas of resistance built into it, even at the cost of economic loss.

And I think that that's why one of the things why politics in this area gets so interesting, because I don't think you can just boil it down to what the best deal is. For politicians they're thinking about what's going to keep them elected, and oftentimes the worst deal can make them more politically popular.

LI JI

I will just add one point to what Rachel just said. I want to emphasize that so far our discussion has mainly treated states as the unit analysis. However, Rachel already mentioned that we probably should look at the subnational and non-state actors.

From that perspective, the picture become more complex – and in some way more interesting. In the U.S.-China rivalry, for example, there is a divide between a pro-engagement coalition and the China hawks, whose interests are not well aligned.

A similar dynamic exists in China. Some actors are friendly towards free trade and of engagement with the U.S., and others are far more hostile.

Interestingly, China hawks in the U.S. sometimes aligns, at least implicitly, with U.S. hawkish voices within China. Let me give you one example. A couple of years ago, the China hawks in the U.S. argued that Chinese companies should not be allowed access to the U.S. capital market: No IPOs by Chinese companies. At the same time, the U.S. hawks in China argued that Chinese companies should not be allowed to access U.S. capital market: No Chinese companies IPO in the U.S. They basically speak the same voice.

This suggests that we need to pay closer attention to subnational state and non-state actors in order to develop a sharper understanding of what is actually going on.

DESIRÉE LECLERCQ

When it comes to non-state actors, one thing that isn't given enough attention is how these actors, if ignored, can really disrupt the political momentum toward progress.

We have discussed China hawks and similar topics, and I've also talked a bit about workers. But keep in mind that, if you look at President Trump's statements – such as his tariff announcements – they almost always include a remark about how those policies have hurt U.S. companies and U.S. workers.

The idea is that we have left workers behind, leading to unemployment. Because of this unemployment, workers are at a disadvantage. Our companies are also at a disadvantage because they operate under relatively costly labor protections. Meanwhile, they are competing with companies in developing countries that don't have to follow those expensive labor, environmental, or climate rules.

It is the domestic anger and the domestic concern that, whether legitimate or not, have permeated the conversation and have led to the justification for the very trade policies that we see today.

Pay attention the next time you hear a discussion from the White House about trade. You will almost always see it in some shape or form, coupled with a discussion about the effects on workers and on corporations.

And once again, this is nothing new. It was this very kind of conversation that led to the multilateralism we have seen today. In fact, if you look into the archives of the ITO, many of those discussions focus on how to manage the domestic conversations surrounding workers and the corporations involved in trade.

The idea was that if we leave it to the states, we are doomed to failure because each state will try to look for its own interests.

So instead, the original conversations were brilliant. They created a comprehensive checks and balances system where one organization – the WTO – would decide an issue based on trade merits. If there was a worker and a corporate angle involved, they would defer that part of the question to the ILO to determine whether there was a legitimate non-protectionist abuse of worker rights.

It was only then, when there were a trade violation and a labor rights violation, that the case would continue. At that stage, based on the original architecture, it would go to a third overarching organization, the United Nations Economic and Social Council (ECOSOC). ECOSOC would decide whether the offended country should be allowed to retaliate and what that retaliation should entail.

At that time, the intersection of trade and labor benefitted from multiple stages of multilateralism, shared technical expertise, and neutrality, all within these public discursive processes that resulted in a well-balanced and politically legitimate outcome.

Because happenstances occurred, the ITO failed, and the GATT was established, much was lost in the process. This once – at least in my mind – brilliant architecture was lost to history. Instead, what arose were the very kinds of ad hoc, state-led determinations and enforcement that the original trade architectures had sought to avoid.

We find ourselves in the very situations that the 1930s and 1940s conversations tried to prevent. We have ourselves in a situation where workers, where corporations are not only driving efforts but are also the catalysts of really bad trade policy, and the absence of any form of legitimate and public decision making that was always attempted to be embedded within the system.

LAWRENCE J. LIU

I find that to be a fascinating and interesting point: this idea that there are domestic pressures or challenges with regards to labor, and with regards to other things, but the more legitimate forum is this multilateral internationalized system as opposed to perhaps something domestic. That is something puzzling, though what you said is very illuminating on that front, Desirée.

So, I do want to open it up to Q&A to make sure we get some other voices in. But before that, I did want to reemphasize this interest in how trade operates on the ground. We started with economic security, geopolitics, states, and institutions. By the end, we are talking about workers, individuals, and people who are experiencing trade flows and things on the ground.

Harlan, for instance, talked about whether we need ways to manage how domestic competition law operates. That is a very different kind of conversation from how much tariff do we impose on a good coming in. And that is where a lot of the conversations are moving and maybe where the rubber meets the road in some sense. So, I want to reemphasize the subnational aspects, the domestic aspects, and how all of these things interact with the international.

With that, I would love to bring in questions from the audience, especially if there are students. If you have questions, I would love to start with you all before we shift over to the other panelists.

Q1:

I would like to push a little bit further on the question about the ILO. I want to ask: Why is it easier for capital to travel internationally? Why is it easier for corporations to cooperate internationally and more difficult for labor organizations to cooperate? And is there any potential, if not solution, ways of improvement on this issue?

DESIRÉE LECLERCQ

That's such a good question, and it relates to something I was about to say: we often view these domestic actor movements as just communications, but the actors themselves aren't on equal footing. There are different power dynamics and operations at play.

Corporations can create subsidiaries, offshoots, or management structures that cross borders through global supply chains. These operations generally share the same goal: accumulating profits. Whether they are formed at the same corporate headquarters or through partnerships, they all aim for the same objective. That's not the same with the labor movement.

I was talking with some people earlier about how, even within the United States, trade unions have responded to tariffs, and you see a lot of division. Some unions represent workers who, you know, don't want competition; they focus on domestic production, and imports are seen as a threat. These unions tend to support tariffs. On the other hand, there are workers in export sectors who rely on reciprocal trade relations to have demand for their jobs and to earn good wages. They are strongly opposed to tariffs because they can disrupt trade relationships, including the markets they depend on.

But you also see this fracturing among unions throughout the supply chain, where there is a form of competition versus the shared interests and profit generation that exist among transnational corporations.

So even setting aside questions about free movement of workers, immigration, and other issues – those basic interests that unite corporations across borders tend to divide workers across borders.

Q2:

This question might be somewhat related to the one that was just asked, but there are different angles baked into the question, and I do not really know where to direct it, so I'm interested to hear what any of the panelists have to say.

I am interested to know whose interests are actually being represented in the evolution of U.S. trade policy. We have talked about corporations and workers kind of in the same sentences, but I imagine that their interests – and this gets to the question that was just asked – their interests are different.

And with the proliferation of transnational capital during the height of neoliberalism, I imagine that those interests do not easily just go away. And I wonder where they find their home in the Trump administration. Is that through friendly tax policy? Is that through a kind of strategic capitalism that is considering their interests over the interests of workers?

So, as I said, there are a lot of things baked into that, but interested to hear the response.

HARLAN G. COHEN

So, it's a very hard question, right? This is the hard work of politics and policy.

At its best, the goal has always been in U.S. politics to find some way to balance all of these different interests through both processes at the executive branch level – so processes within things like U.S. Trade Representative (USTR) – and in processes within Congress, and then hope that between the two you get some kind of balance.

Over time, I think it's fair to say that corporate interests were able to get the ear of those who were negotiating trade agreements more than union representatives or other various interests could. And that probably has a lot to do with the ways in which union power in the United States declined over time with regard to corporate power, too.

But the idea there in normal politics is that you're trying to figure out ways to make sure that all those voices are heard.

The worry right now is not that corporate interests or union interests or any other interests are better succeeding at lobbying. Right now, it's a politics of highly parochial interests. It's not about any particular sector. It's about particular individuals who have the ear of the president or other people in the executive branch who are able to get particularized deals for themselves.

And I think we see this across all sorts of different deals that have been made – whether it is the way in which the TikTok ban was eventually resolved; it is in the way in which Nvidia and AMD were able to get this strange carve out from export controls where they pay a fee to the government; it is in all of these various different deals that are being made with regard to rare earth mining – it seems like what's really at interest are the particular companies who might be able to get in there.

We even see this a bit in some of the talk around Greenland where it seems like there are very specific people who might have a very specific interest with regard to mining there.

And so, the worry is that we no longer have a situation where we are just trying to manage the politics between different interest groups. We have to worry about whether or not we're taking the interests of the public into account at all.

DESIRÉE LECLERCQ

I'll address the implicit suggestion in your question, which is that within the United States – not transnationally, but just looking locally – corporations and workers are always at odds. In fact, that's not always the case.

In full disclosure, I worked for the Office of the U.S. Trade Representative during both the Biden and Trump administrations. During

that time, we held meetings with the labor advisory council and corporations.

Both workers and employers have a seat at the lobby table. While they may meet in other areas, a key shared space is in enforcing labor rights abroad.

The reason they both coalesce on that is that, obviously, they want to help remove the competitive advantage of corporations in those other countries that are building profits on the backs and shoulders of vulnerable workers. Companies in the United States don't want to compete with companies in Mexico that pay their workers nothing, and unions in the United States don't want workers in Mexico to be paid nothing, for myriad reasons.

And it's for that reason that, if you look at what came out of the Trump I administration, the USMCA's enforcement mechanism was created. For those who are unaware, under USMCA, a facility-specific mechanism was adopted to enforce Mexico's labor rights and facilities in Mexico, and it was bipartisan. The Republicans and the Democrats love it. The unions and the corporations in the United States love it.

And if you listen to current conversations about where U.S. trade policy is headed, while there are still debates across various areas, you'll consistently hear USTR mention that the labor mechanism they designed in Mexico will be continued elsewhere because everyone wants to examine and raise labor costs in other countries.

LAWRENCE J. LIU

Two quick notes on that, just to piggyback off Desirée's point.

This is something that has come up in the last couple comments and questions: When do different interests align and when do they not?

In my research, when interviewing different import-sensitive industries about whether remedy cases are filed by the firm or by its workers, firms and workers act in coordination effectively.

People would joke to me that this is the one area where workers and their employers were on the same page. So, they would bring anti-dumping and countervailing duty suits together, because for them that was an issue upon which they could agree. But of course, export-sensitive industries were not on the same page there. All to say, you see these alliances or interests combining in ways you might not normally expect. I think, especially in the trade area, it happens often.

I also want to bring in Ji to talk a little about China. We have been talking about subnational interests and how they coalesce. I wonder if the way we are talking about in the U.S. context would be similar in China – that is, alliances between different kinds of groups and how they come together. Are there similar interest groups that exist on trade issues in China?

LI JI

Within the state, there are different agencies and they have different departmental interests.

The Ministry of Commerce (MOFCOM) has historically been mandated to attract investment and promote trade. Within that agency, ideology, departmental interests, and bureaucratic incentives are broadly aligned with the principles of liberal economic order. As a result, it has tended to be more friendly towards multinational corporations, more professional, and supportive of Chinese companies investing and expanding abroad.

A similar orientation can be observed in agencies such as the National Development and Reform Commission, which are generally more pro-trade and pro-investment.

But on the other hand, you have the national defense and national security constituencies. They tend to be more hawkish towards the U.S. They tend to securitize trade and investment. They suspect that every multinational corporation is an agent of a foreign government and tend to be hostile towards the long-term interest of China.

It is very much the same as in the U.S.

The key difference today is that, in the U.S., this anti-China posture is kind of bipartisan. Across most federal agencies, as well as the state level, there is a generally hostile or skeptical stance towards China and Chinese multinational corporations. California is a partial exception, largely driven by domestic economic considerations.

DESIRÉE LECLERCQ

One thing to note is that, going back to Rachel's point about whether this is more about Biden administration policy than Trump's, I'm not sure that the top levels of the Trump administration necessarily agree that China is the main rival or enemy. I mean, the entire national security strategy that was released really emphasizes the Western Hemisphere and not relations with China, so it's just something to watch, right?

LI JI

Right. There's a lot of uncertainty about the China policy in the future.

In the end, these two countries are not going away – they will have to find a way to coexist. I hope some rationality will be reinstalled in the U.S. for foreign policymaking.

Q3:

Thank you so much. This has been such an interesting conversation.

I noticed something that Rachel said really early in the conversation, and that was that 160 states in one institution is unsustainable.

And I wonder if we could just step back a little bit and take the bird's eye view and think about what the WTO experience has to say, institutionally speaking, about these institutions of multilateralism.

Is there some sort of takeaway that we should move towards regionalism, plurilateralism, minilateralism? Do we need a different model?

I'm reminded of Nancy Combs' remarks this morning, in the context of the ICC, that this kind of universalism is unsustainable and that norms must instead be socialized.

Was universalism a grand 20th-century experiment – the only time in history that attempted something like this – and are we now moving on from it?

And this also brings me back to Harlan's work on multilateral life cycles. Maybe one takeaway is we need to move to different tools – minilateral, plurilateral, socialization, whatever else – or maybe this is just a natural part of a multilateral life cycle. We're in the growing pains to the thing that comes next.

I was just wondering if the panelists had perspectives on this.

Q4:

I'm curious to hear from the panel about the soft nature of so many of the trade agreements that the Trump administration has announced in the last year. In particular, I'm curious about your view of whether for the Trump administration that soft nature is feature or bug, because I can tell both stories, right?

One is that soft agreements reflect the rejection of law that we've talked about. They facilitate a transactional approach. As a matter of domestic law, they facilitate executive branch unilateralism compared to treaties. So, this is the strategic desired outcome.

On the other hand, I can also tell a story about how this is the bumbling result of an overwhelmed bureaucracy that just can't manage the sheer number of bilateral agreements that had to be reached. And from that perspective, this is like an interim to a desired goal, which is more like something that's a bilateral treaty.

But it highlights another advantage of the WTO, which is it reduces transaction costs, right? I mean, this has been implicit in the comments that a number of you have made, but when you have experts, when you have rules for how a forum operates and goes about its business, all of that seems to have been chucked out the window in the way that this administration has gone about those bilateral agreements.

I would love your take on what to make of the soft nature of those agreements.

Q5:

To bring a note of hope to the room, I just wanted to ask: as some guardrails fall and certain systems begin to crumble, is there any aspect of international trade – or public policy more broadly – that we are confident is not going anywhere anytime soon?

LAWRENCE J. LIU

Ending on a note that hope is always good! So, with that, we have three very good questions, three very short minutes, so I invite anyone who wants to respond to do so.

RACHEL BREWSTER

On the question of what the optimal institutional size is – I think that at least in trade there’s always been a fair amount of power politics mixed with consensus, so that when WTO say that they work on consensus, they just say no one has to actively block. So, even when states weren’t excited, they were not going to take on the diplomatic cost of blocking.

Look at the creation of the WTO – both the U.S. and the EU had to officially withdraw from the old GATT to convince Brazil and India to sign up to the new WTO. There’s always been some of these power moves, which is the old deal isn’t on the table, it’s either you get nothing or the new deal.

So, some people would say, well, it’s always been kind of Trump 2.0. I would say that that was different because at least a lot of people thought that there were benefits to the other states. It wasn’t just this idea that we now want the lion’s share of everything, we were entering into an agreement. So, there’s always been a kind of this mix of some amount of cooperation but some amount of fights over distribution and then kind of a power move to make the regime shift happen.

I’m not sure that we know what the optimal size of an institution is. It probably depends a lot on the interests aligned. Are we talking about an industry agreement on semiconductors? Are we talking about an agreement on supply chains generally? It’s too contextual, at this point, have like a grand theory of institutional design coming out of this.

I will briefly talk about Christine’s great question about the soft nature of these agreements.

There is a little bit of historical precedent for having a soft agreement. The U.S. before the WTO, if we thought another state was cheating under the GATT agreement, would bring – domestically – a Section 301 complaint, and the USTR would internally adjudicate whether the other state was cheating. But USTR’s first move was supposed to be to approach that other state and say, can we work something out? And USTR could address it and then just leave it, and it was never approved by Congress. It

was an administrative decision that had been reached between the U.S., between the USTR, and this other country.

To some extent, you could imagine that all of these Trump 2.0 agreements are basically just like Section 301. It was taken under IEEPA, not Section 301, but they're that kind of deal.

But I don't think that is right. These agreements are portrayed in the media as these huge agreements, but at the same time the Trump administration is not releasing the texts. The administration is not having USTR do a legal scrub.

USTR absolutely doesn't have the bodies for that, not given the number of agreements. But that is more on the feature not a bug aspect, in the sense that these agreements are so transactional. The administration constantly wants to be able to renegotiate them, and the softness of the agreement aids the renegotiation.

And then I'll stop with my statement of what I think is not going to change – although I'm not sure it's hopeful. What is not going to change is intellectual property, because the West just has such a strong interest in maintaining its intellectual property, and now China is issuing so many patents that I think they're in the game.

So, IP matters and it's not going away and we will sanction anyone who tries to fight this. That tends to benefit capital more than labor or consumers, so I'm not sure that's a hopeful end, but I think it's stable.

DESIRÉE LECLERCQ

Can I take a quick step back? I'll combine Professor Durkee's question with our ray-of-hope question.

A historian once said that history repeats itself every 80 to 100 years. If we think about it this way and consider your question about universality and whether we're done with that model, I will argue that governments perhaps want us to move beyond the model of multilateralism, and that's what we're seeing right now.

And I believe they will inevitably realize that, whether they agree with the model for their own interests or not, we need multilateralism if we want to prevent some of the violence and economic violence happening today.

But we faced the same situation in the 1920s and 1930s, when governments believed, "We don't need universal programs or all of this; we can handle it on our own." They gradually turned to multilateralism, not because they wanted to lose power. They did so because they felt they had to relinquish some power to operate effectively and truly protect their interests.

I expect things will get worse before they get better, but the reason multilateralism was embraced in the first place will be embraced again.

Turning to the other question, its beauty lies in the eye of the beholder, whether it's a feature or a bug.

Previously, the Trade Promotion Authority required the President to involve Congress before negotiating a trade agreement. These agreements were legally binding commitments that involved careful planning and negotiations.

Today, however, the President is acting independently of Congress and signing agreements that seem less like binding commitments and more like a snapshot of best intentions at that moment.

That is a bug to the trade partners who want a commitment they can trust and rely on. It is a feature to the Trump administration that values the ability to adapt as circumstances change.

LI JI

Some setback is in order, but we have a lot of smart lawyers who will figure out how to get around the rules.

Think about the export control and the sanctions – you can conceptualize them as additional transaction costs. If the returns from a cross-border transaction are high enough to justify those cost, the transaction will take place one way or another.

Lawyers will just figure out a way to structure a transaction so that it will be in compliance with the rules as well as accomplishing clients' objectives.

And soft agreement – I don't know. Consider the trade agreement between China and the U.S. during President Trump's first term: the details were spelled out but they were not really enforced. So, I don't think the specification of a bilateral trade agreement is that crucial under the current geopolitical context.

As for universalism, that era is over. It belonged to a very specific historical moment. At the time, there was a sense of triumph – remember this book, *The End of History and the Last Man*. People were so optimistic and WTO emerged from that optimism. That moment has passed.

So maybe we can see some resumption of multilateralism in the future, but it will not be the same universalism as we observed or experienced twenty years ago.

HARLAN G. COHEN

I largely agree with what everyone else has said so far. First off, in terms of the multilateralism and the shape it might take towards the future, it may very well be that we are at a point in the cycles of these things where we need to move to a more bespoke, stacked multilateralism where you have some institutions that are quite broad and some institutions that are much more bespoke.

The key is that we should always be thinking at any given time about what these institutions are meant to do.

And I would say we do need an institution of 166 states where they can get together and talk about these things and resolve various difficulties and tensions in their relations. That may not necessarily be the WTO as previously understood.

This is part of a drift that we saw here: the WTO wasn't designed as that kind of institution. It was designed as a club – one where you paid membership fees in the form of lowering your tariffs and other kinds of regulations in return for some kind of shared gain. It is very hard to maintain that for 166 different states.

It may very well be that we have to think about how we make sure we have this debating forum, to resolve tensions, over here and these more club-like for a, where we're trying to figure out what kinds of deals we can get over there.

In terms of kind of the softness of these various deals, I largely agree with where everyone else is.

I do think – and this is what really worries me in the current Trump administration policy on this – that there is sort of a *carpe diem* view of foreign policy and law where thinking about the long term is for suckers. You win the day. And then tomorrow you try to win that day.

And the problem with that view, if that's what's playing out here – which I think you can see in a lot of these deals – is that that really is kind of the anathema to law. We are trying to work towards the long term, and we have to really work against the shortening of the time frame in that way.

And then lastly, in terms of sort of hope for the future, I actually think that the Trump administration has clarified things for a lot of people around the world.

There was actually in some ways more risk in the Biden era of slowly drifting towards competition and securitization than there is now because I think everyone kind of sees what the result is of the fullest form of this kind of unilateralist policy, and they are largely rejecting it.

They want the stability that they had in the previous system and they're willing to stand up for it. So, I actually think what, in some ways, what we're seeing is the resiliency of the system, just from outside the United States.

LAWRENCE J. LIU

Please join me in giving our panel a big round of applause.