



Trade Talks, with Soumaya Keynes & Chad P. Bown
A podcast about the economics of trade & policy

Episode 111: Trade Policy Under Trump

[Episode webpage](#)

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Transcript

(lightly edited)



Soumaya Keynes 0:01

Hello, you're listening to an episode of Trade Talks, a podcast about the economics of trade policy. I'm Soumaya Keynes, the trade and globalization editor for The Economist.

Chad P. Bown 0:07

And I'm Chad Bown, a senior fellow at the Peterson Institute for International Economics.

Soumaya Keynes 0:09

In this episode, we are going to talk to Stephen Vaughn. Stephen was the General Counsel of the United States Trade Representative, or USTR. And so basically, he was the chief lawyer for Robert Lighthizer.

Chad P. Bown 0:29

When you see pictures in the press of Robert Lighthizer at hearings or after rounds of negotiations, Stephen Vaughn is usually there in the background right behind him. Or at least he was until April when after two years he left the Trump administration.



Soumaya Keynes 0:45

Now, before we begin, we should say a few things. This episode is very long. We cover Trump administration policy on China, on the EU, on the World Trade Organization. But before you send us angry emails, remember, you don't have to listen to it all at once. There are timestamps in the show notes if you want to skip to the topic you find most interesting.

Chad P. Bown 1:09

So that the episode wasn't even longer, we made some pretty challenging editing decisions. And just to explain the final result, the point of this episode is not really to try to win any of the arguments here. I think that kind of episode might have lasted several days, and I'm not sure any minds would have ended up being changed. But what we are trying to do is to give listeners a better understanding of the thinking behind some of the Trump administration's trade policies.

Soumaya Keynes 1:35

If this is the first episode of Trade Talks that you've heard, and you're unclear about what all of the arguments might be, then please, please go back and listen to our back catalogue.

Chad P. Bown 1:47

And with that out of the way, here's our conversation with Stephen.

Soumaya Keynes 1:52

We are here on November 22 with Stephen Vaughn. Stephen, hello.

Stephen Vaughn 1:56

Hello.

Soumaya Keynes 1:57

Could you tell us a bit about your career? What did you do before you worked in the Trump administration?



Stephen Vaughn 2:04

I was a lawyer here in DC. I did trade law for a long time at a firm called Skadden Arps. And in 2016, I was working at a firm called King and Spalding. My former boss at Skadden Arps was Ambassador Lighthizer. And he got the job as USTR and asked me if I wanted to come and help.

Soumaya Keynes 2:22

And over your career, is there any , set of industries that you worked with particularly closely?

Stephen Vaughn 2:28

I've worked with a lot of steel companies; I've worked with a number of, most of my practices involved domestic producers and unfair trade.

Soumaya Keynes 2:37

When exactly did you leave the Trump administration? And what are you doing now?

Stephen Vaughn 2:41

Yeah, so my last day was April 30th. And I'm now a partner at the King and Spalding here in town. And I do want to emphasize that I'm really speaking only for myself, not for anybody else, and certainly not for anybody who's currently in the administration.

Soumaya Keynes 2:56

We want to cover a lot in this conversation. But first of all, I know that you have been a Trade Talks listener in the past. And I also know that you disagree with some of the positions that we have taken, some of which have been fairly critical of the Trump administration's policies. So first big open-ended question, you're smiling, what do you think we have gotten wrong?

Stephen Vaughn 3:24

I thought about this question a fair amount. I would say this, I would say that the biggest question is that, and it's not just you, it's the lot of the people who do trade in Washington and think about trade in Washington, I think they are conflating really three different questions. One, what should our trade policy be; Two, how do we help the people who've been hurt by that trade policy; And three, who



gets to make the trade policy? And I think those are actually three very, very distinct questions. And there is a tendency in Washington to think that the answer to all of these questions is, we sit down with the folks at the WTO, and whatever comes out of that process, that's what we all live with. And I think that's a mistake.

Chad P. Bown 4:10

And so, what would your answer to those three questions then be?

Stephen Vaughn 4:13

I think, in the first question, what should our trade policy be? I think we have to have enormous flexibility to deal with all the many different and varying issues that come up in a country of over 300 million people. I think we should think about trade policy more the same way we think about tax policy. Some people are going to want lower taxes, some people are going to want higher taxes. But a lot of this really gets into the details and the particular nuances of the particular situation. And so, you need a lot of flexibility. Two, the issue about what you do with the people who are on the other side of the trade policy. I think you have to have political solutions that will allow people to feel like the system is working and they're being treated fairly. And then three, in terms of who makes the trade policy, it has to be made by US elected officials, because they're the only ones who are really responsible to the voters and it really is their job to sort out like what kind of a country we want to be and how trade policy is going to fit into that.

Soumaya Keynes 5:14

If you accept that Americans should have flexibility, do you accept that other governments should have flexibility too? Here I'm thinking of the Chinese state.

Stephen Vaughn 5:22

Yes, I do accept that other countries are going to have flexibility. In fact, I think the reality of the situation is that other countries have flexibility, and they do act. And I think we have been too constrained in how we respond to that. So, we have been trying for a very long time to get Europe to accept our beef hormones, which they promised to do when they joined the WTO. It's clear they're not going to do that. We have been trying to get China to make a lot of changes to their trade policy. They may or may not do that. So, I think other countries are setting out their own trade policies and I think the Americans have to do the same.



Chad P. Bown 6:03

So, let's talk about China. We don't know the terms of a phase one deal yet, or if we're actually going to have a phase one deal. I guess we should first say that we probably agree that there are problems with some of the ways in which the Chinese economy has evolved. It hasn't become as market-oriented as perhaps was anticipated or hoped. But my issue and I think the question that I'm going to get to here involves the strategy, and whether or not the Trump administration is actually going to end up resolving these concerns. From the outside, it looks a bit chaotic. There was this recent article from Bloomberg's Jenny Leonard and Shawn Donnan describing this as something that started off as a reasonable process and has now descended into a bit of a mess. So, can you just tell us a bit about what the strategy is from the Trump administration on China?

Stephen Vaughn 6:58

Well, I think the President has been very clear and straightforward from the beginning. And his basic outlook has been that China has a choice in terms of how they deal with the United States. They can either make the type of structural market opening, market efficient changes that you referenced, and that we would all like to see, or they will not have the same level of access to the US market. And I think he's been very consistent on that from the beginning. And I think a lot of what you're seeing in the process has been just what it's like when you have negotiations, and when you have give and take. This is what trade negotiations look like, and I think everybody accepts that and understands that. And I think if you look at how the markets are responding, and the markets are reacting, unemployment is really low, inflation is really low, the Dow is relatively high. So I think we definitely have policy space to make this work, and I think that's what the President has been doing.

Soumaya Keynes 8:00

Are you at all worried about some of this trade policy from the Trump administration that we've seen – that that might backfire? And actually, that might lead the Chinese to do more of the policies that had been so criticized? An obvious example might be the cases of ZTE and Huawei, and how these threats to cut them off from US suppliers could have emboldened voices inside China to actually do more of the industrial policy that has been criticized.

Stephen Vaughn 8:37

Well, I think everybody has to understand this is a complicated relationship. And there are no really easy choices one way or the other. And you have to make very difficult decisions about which is the best path to go down. But do I think what we're doing is more likely to be effective than simply letting them have their way, which is what we were pretty much doing before? Yeah, I think this is more likely to be effective. Because what we're telling them is, if you don't change, well, then you just don't



get the same level of benefit. And I think it is important to understand a lot of the uncertainty that people are worried about really has to do with China. They have to decide what they want to do. And that's what we're waiting for. And they've been sending mixed signals, as you know, for a very, very long time, way before President Trump got elected. So, they will ultimately decide where they want to go. But in the meantime, they will not have the same access to this market if they want to keep going with these policies.

Soumaya Keynes 9:38

You just said that you think that this new strategy is more likely to work than the old one. But the point I might make would be that there were other strategies available. There was also the strategy that we've mentioned a lot on Trade Talks, which would have involved bringing together a coalition of countries, maybe filing a big case at the WTO. Could you explain why that wasn't the strategy that you chose?

Stephen Vaughn 10:12

Well, in the first place, there have been a lot of efforts between the United States and other countries to talk about China. Ambassador Lighthizer, and Commissioner Malmström, and the Japanese government put out a number of trilateral statements seeking to get consensus in terms of what market oriented forces would look like.

Soumaya Keynes 10:30

But everything I've heard suggests that the bilateral negotiation was the priority, right, that the trilateral really was an afterthought in terms of the level of engagement with these two processes.

Stephen Vaughn 10:41

Okay, there's two parts to your question then. So, let's talk first about the case. So, the United States just won a big victory in a case involving the European Union in terms of subsidies that they're providing to Airbus. So that is one important industry. And that case has currently been at the WTO for 15 years. So, I think the idea that you're going to use a similar process to constrain people who have set goals that are supposed to be settled by 2025 is not very realistic. I think on the other side in terms of putting together a coalition of the willing against China. I haven't seen much evidence, either in this administration or in the last administration or in the administration before that, that there is a significant coalition of the willing. I think the European Union has been very careful not to pick sides between the United States and China. And I really think there's very little the United States could do to get them to change their minds.



Chad P. Bown 11:45

But why not others? Why not try to bring others on side?

Stephen Vaughn 11:49

The question for the Americans is, what do you do? And I think what they've been trying to do is, they've been trying diplomacy with other countries. You saw, for example, that in the USMCA, there are provisions in there that are designed to have Mexico and Canada work more closely with us on China. You've seen them in this trilateral process try to work with the Europeans and the Japanese. So, there are efforts being made on the diplomatic side. And I think there is a real interest in getting other countries to take this as seriously as we do. At the same time, I think the patience of the United States is not unlimited. This is urgent for us in a way that it's not necessarily urgent for other countries. And so I think it's simply a question of each country and each group is pursuing its own interests. And when they coincide, they will coincide, and when they don't coincide, they won't coincide.

Soumaya Keynes 12:38

I guess there are a couple counters. So one would be, yes, there was a lot of impatience. But you could also argue that unless you have that united front, it's really hard to see how you would get the Chinese to sit up and take notice. So yes, you want to do things quickly, but realistically, if you want to achieve something as difficult as actually a policy change in China, it just does take time, it does take time to build that coalition. It's not something that you can shortcut through.

Stephen Vaughn 13:07

And then the question to me is, what do you do in the meantime? In other words, while you're waiting for other countries to sort of get to where we are on these issues, do you still allow China to have full access to this market? Do you still allow them to use [Made in] China 2025 in ways that are going to allow them to attack this market? Or do you say, whatever we can do, and whatever we may not be able to do, the one thing we can do is control access to the US market, and that we are going to do.

Soumaya Keynes 13:35

Can we talk about enforcement? This was one of those areas in the upcoming deal that I know has been super controversial. And I think we'd be the first to say that this is not an easy problem to solve, right?



It's really really difficult given all the opacity in the Chinese system. So it's not like there's a there's a kind of easy off-the-shelf option there for enforcing any trade deal. Do you have an idea of how you see a possible enforcement system working?

Stephen Vaughn 14:02

I think that's obviously something that this administration has given a lot of thought to. And I think it's something that, my guess is, is that they will be seeking some sort of an arrangement whereby if China makes more promises and does not live up to those promises, then there will be consequences for China in terms of what access they have to the US market. There's not a lot else the United States can do in terms of enforcement. I do want to make one other point here, which is that as you know, there have been a number of unconventional suggestions. For example, blocking student visas, or doing things more in the human rights space, or going after individual companies like ZTE. And for the most part, the President has pushed back on those type of actions and has tried to keep the focus on the trade side of the relationship as opposed to dragging in non-trade factors.

Soumaya Keynes 15:00

Why is that? So if I look at China and what the government is doing now, their actions on human rights seem really bad. Hong Kong, Xinjiang. If you wanted a tougher approach to China, why separate out the trade from the human rights stuff?

Stephen Vaughn 15:18

I think what you're going to see here in the United States is that we're going to have three categories of people in terms of what we do about China. I think you're going to have one group of people who remain optimistic and hopeful and want to engage with China. I think you're going to have a second group that is going to look at things like Hong Kong and some of the other practices that are happening over there, and are going to push for more decoupling, and to not have that type of relationship. And I think where you see the President is between those two groups. He wants to work with China to the extent he thinks that working with China is to the benefit of the United States. But he has been consistently unwilling either to push for decoupling, or to say we're going to go back to the status quo. I do think that one possibility that everyone should be thinking about is that as time goes on, issues like Hong Kong and some of the other human rights things that we're seeing in China may make it more difficult for any president to have a good trade deal with China, and may overtake some of the issues that we've been hearing up to this point. So I think that the longer the controversy goes on, there's been kind of a working assumption, that the time is on the side of the doves, and that we will eventually go back to where we were before. But that may not turn out to be the case.



Chad P. Bown 16:43

Can I ask a bit more of the details on the enforcement piece? Is what we're thinking about if there is a deal that has some kind of enforcement with China, are we ever going to get back to a system of impartial third party adjudication of this? Or is it always going to be something that's tied to American leverage and tied to a unilateral decision by the United States of whether or not China is living up to these commitments?

Stephen Vaughn 17:11

To me that's a different question. In other words, I think if you're really just talking about getting other countries to do what you want the other country to do, I think most of the time, the best way to do that is going to be to use the direct leverage of the United States in terms of its market. I do recognize that there may be situations where for diplomatic reasons, maybe it's easier for another country to do what you want them to do, if they can point to arbitrators, who made a ruling against them. And I think that is something that really needs to be decided more on a case-by-case basis, in terms of whether you think an arbitration process is going to help. I think in terms of China, some people think they are more likely to respond to arbitration. I'm more skeptical in that regard. I think that what they've tended to do is to make very, very small changes, and pretty much go on with the way they were doing things before. So I think they're going to ultimately decide what's in their own best interest. And we have to decide how we want to deal with that.

Chad P. Bown 18:24

Okay, so Soumaya, let's shift gears from China to the EU.

Soumaya Keynes 18:30

One thing that's just been reported is that there may be a change in the way that the US engages with the EU. So what we've seen so far is we've seen the Section 232 investigation into autos, there was supposed to be this negotiation to end the national security threat posed by imports from the EU of cars and car parts. There was a kerfuffle, there were hearings about the French Digital Services Tax, and there was a kind of temporary deal over that. And then obviously there's this case that is about the subsidies that the various European governments give to Airbus, the big plane maker. And so one of the things that's been reported is that all the complaints are going to be bundled into a Section 301 investigation into the EU's trade policies. Do you think that would be wise? What would one hope to get out of that?

Stephen Vaughn 19:25



Well, I don't know what they're going to do. And I read those same press reports. And I don't want to comment on whether or not that's even something that's under consideration, because I don't know. I would say this. I think the Europeans. When you look at what's happened over the last couple of years, they have made a deal with Korea; they've made it big deal with Mexico; they made a very big deal with Canada; they made deals with Japan and have other productive negotiations going on with Japan; they've had long negotiations with China; they're in negotiations with India. And for the most part, the Europeans have refused to have serious conversations with the administration. I think that was a mistake. I think the Europeans should take US concerns more seriously. And that may ultimately have consequences on the relationship between the United States and the EU.

Soumaya Keynes 20:17

From the European side, I suspect there may be some Europeans listening who might be a bit surprised by that take. And from their perspective, they might think that actually it's the US not engaging with them. The US is so distracted by China, bilateral negotiations, not being clear about what they actually want from the EU. What would be your response to that?

Stephen Vaughn 20:41

I think the United States has been very clear that they did not like the French Digital Services Tax and France went ahead with it anyway, I think the United States has been very clear that they have concerns about US agricultural access to the EU market. Europeans haven't been willing to negotiate on that very much. The United States been very clear that it's concerned about the subsidies that are given to Airbus. The Europeans have been relatively intransigent on that. United States been very clear that it's concerned about some of the recent investigations from the commission into US tech companies. And the US recently gave Commissioner Vestager more power. I mean, the EU recently gave Commissioner Vestager more power. And the EU recently picked as its new Trade Commissioner, a man who said that "he would teach President Trump the error of his ways." So that is how the Europeans have decided to manage this relationship. And there may be consequences.

Chad P. Bown 21:33

But didn't we go first by putting steel and aluminum tariffs on their stuff?

Stephen Vaughn 21:38

They run a massive trade surplus with the United States. We are one of their biggest export markets. They are not nearly as great a market for us. They're not nearly as open to us as we are to them. And so I would say the answer to that is no.



Soumaya Keynes 21:55

Their average tariff rate isn't that much higher than the US's, it's still pretty low, right? It's like a percentage point or something on average?

Stephen Vaughn 22:03

Are you talking about between us and the Europeans?

Soumaya Keynes 22:05

Yes.

Stephen Vaughn 22:06

Well, you know, for example, that the President is concerned about the relative values of the two currencies. This is something that he's spoken about quite a bit. He's concerned about the relative interest rates in the two markets. He has been very, very clear that he thinks this relationship should be rebalanced, that we should produce more, and that they should consume more. And I think we had this disagreement in the 70s, which led to a rebalancing of currencies. We had a very similar agreement in the mid-80s, which led to a rebalancing of currencies. And it just seems to be sort of a chronic disagreement between the United States and the Europeans.

Soumaya Keynes 22:45

Let's move on to the WTO's Appellate Body which has a few weeks life left. Could you summarize why the US is killing the WTO's Appellate Body?

Stephen Vaughn 22:55

So there was a dispute settlement process that was agreed to back in the early 90s. And there was a thought that as part of that dispute settlement process, there should be an Appellate Body to make sure that the dispute settlement panels didn't go too far in any one direction. The Appellate Body was supposed to issue decisions within 90 days, the view in America was it would basically be a backstop to make sure that panels didn't make major mistakes. Since that time, the Appellate Body has basically become its own sort of rules making body. They issue massive opinions; they fill in gaps in the trade laws; they try to answer questions that the members left open during the negotiations. For



roughly 20 years or so American policymakers of both parties have been warning the rest of the world that this was a problem that the United States never agreed to this sort of a process, and that it would make support for the Appellate Body politically unsustainable in the United States. And that's how we got to be where we are.

Chad P. Bown 23:50

The way it's been explained to me is that one of the really big American concerns has to do with trade remedies and in particular anti-dumping. As part of the Uruguay Round – the agreement that ushered in the WTO – there's this thing called Article 17.6 of the Antidumping Agreement, whereby dispute settlement is supposed to give deference to domestic authorities that do these anti-dumping investigations. So, in the US case, that would be Department of Commerce and the International Trade Commission, and antidumping protection in United States has been very, very important, but only for a couple of sectors, one of which is steel. And when I run the numbers on this, it looks to me like we're talking about antidumping covering about 2 maybe 3 percent of US imports. So, how would you respond to skeptics that would say that this is all about the WTO threatening the livelihood of the Washington DC trade bar and taking away a big source of their business?

Stephen Vaughn 25:02

Well, I think that would be as credible as saying that the supporters of the Appellate Body are the trade lawyers in Washington who make money suing the United States in Geneva. There's a lot of that business as well. So I think we should sort of put all that off to one side. The truth of matter is, as you know, and you guys are very knowledgeable about this, antidumping laws and countervailing duty laws are extraordinarily politically sensitive in the United States. We are a country that runs a massive trade deficit. We have run it for my entire adult life, and we are likely to continue running it for as long as we are the world's reserve currency. So there's always been a need for some sort of a circuit breaker or some sort of a way where companies and manufacturers who feel like they're at an unfair disadvantage can get some type of relief. And that's one of the reasons I think you see that the anti-dumping duty laws are very sensitive here in a way that they may not be in other countries. The Appellate Body obviously hasn't been sensitive to any of that, and they've simply trampled those laws every chance they've gotten. But I don't really think that's the only issue here. The truth of matter is they've been very, very aggressive everywhere. They were very aggressive in what they did to the Safeguard Agreement. They were very aggressive in terms of now a lot of people over there want to weigh in on national security issues. I mean, they really have a very expansive view of what the Appellate Body can do.

Chad P. Bown 26:33



But I do want to pull out one thing that you said there, and this is often explained as if it's a fight between the Americans and the Europeans over their visions, different visions of law. That the Appellate Body has become, or is threatening to become, more like the European Court of Justice. But what tends to be the case in a lot of these disputes is it's one American law firm fighting it out against another American law firm. The second American law firm is representing maybe the Europeans in a case or the Japanese or Koreans or the Chinese increasingly. To an outsider who looks at this, you would say this is just an intra-family fight between Washington DC law firms. And one side right now – the side that represents the anti-dumping “pro” community – is threatening to rip up the system because of that.

Stephen Vaughn 27:26

Well, I just don't think that's credible. I just totally disagree with that. I don't think any part of that is true. I think that you have a situation where, for a very, very long time, the Bush administration and the Obama administration warned the rest of the world that the United States did not agree to give up the level of sovereignty that is implied by the type of decisions we've been seeing from the Appellate Body. The United States views the WTO agreements the same way the United States tends to view most of its international agreements, as a sort of contract. We have made a certain set of commitments, but our elected officials cannot bind other elected officials or future elected officials or the US government in terms of policy matters to which we have not agreed. That is a very sensitive issue for the United States. We expect our elected officials to be responsible to our voters. And so we simply cannot be put in a situation whereby we make a decision on a piece of policy that was left open to us, and that we feel was clearly left to the members to decide, and the Appellate Body jumps up and says, no, no, that's for us to decide. That's the real issue here. And this idea to sort of say that it's just a fight between different parts of the bar, I think is simply not correct.

Soumaya Keynes 28:49

Looking at this from the rest of the world, the experience that they've had is not one where they have seen a set of proposals from the US in terms of how to improve the system, and they've said, “no, we don't want those proposals.” Their experience of this whole thing has been the US saying, “we have a problem with the system, we don't like it;” the rest of the world saying, “okay, well, we could make this change or this change;” and the US just repeatedly saying, “we don't like it, we don't like it,” and not really engaging with the offers of reform that people in Geneva have been trying to put together. And that's really a criticism of the US in the way that it's been doing this, and the criticism is that it hasn't really engaged with other member states in Geneva to try and come up with something that would be better. What's your response to that criticism?

Stephen Vaughn 29:40



I think what the Americans have been saying very clearly is that there has to be a robust conversation over how we came to have such a big misunderstanding in the first place. In other words, clearly the Americans misunderstood what - or somebody misunderstood like what we all agreed to. We were told that we had not given up any of our sovereignty, and that we had basically entered into this contract, and that issues that were left open to the members would be dealt with in future rounds. And in the meantime, members would have freedom to act in those areas. That's what most Americans believed. Clearly, other members don't believe that's what happened. So even on something as trivial, as the issue of do you have to issue the decisions within 90 days. The rule is pretty clear that the decisions have to be issued within 90 days. They are not. It often takes more than a year before they're issued. Is that a violation of the rule or not? The Americans believe it is a violation of the rule. The other people don't think it's a violation. So if we're this far apart, just in terms of the basic concept, what is the point of trying to paper over that? We have to sort of understand how we came to be so far apart in the first place.

Soumaya Keynes 30:39

So what would other members have had to have done that could possibly have convinced the Americans to stick with some perhaps reformed version of the Appellate Body?

Stephen Vaughn 31:05

I think if we'd had an honest conversation about how the Appellate Body was going to work, and whether it's ever possible to sort of create a body that would respect the retained rights of the members, and how you would actually prevent the type of judicial activism that we've seen. But I think there's been, you know, I'm not aware of much interest in that from anybody really, or anybody talking about it. In fact, as you know, one of the big proposals that came out was is that the Europeans and the Chinese and the Indians put in their own proposal, saying, well, what we really want is to have an Appellate Body with nine members, instead of seven members and an Appellate Body that has a lot more independence and a lot more resources. And all of that, of course, goes completely against the sort of things that the Americans have been talking about.

Soumaya Keynes 31:54

I guess that that could help to deal with the cases more quickly, helping to solve 90-day rule.

Stephen Vaughn 32:03

But if the Americans are coming to you, and the Americans are saying, "this process is creating major political problems for us, because we simply cannot give up that much policymaking power to an



unelected international body.” And your response is to say, “actually, we think that unelected international body should have a lot more power.” That's not really being responsive to US concerns.

Soumaya Keynes 32:27

So let me come at this another way. I think it's possible to hear the US concerns and for it to sound like the US just wants to win all the cases. And when the US complains about judicial activism or decisions that diminish the rights of the US, well, of course, the US is going to complain about decisions that it's lost. And it's not possible to set up any legal process whereby the US could just be promised a win in every single case. So it's not clear that there was ever a workable fix to that concern.

Stephen Vaughn 33:03

I think anyone who, if that's their takeaway, then to me, it really does raise questions about maybe we just are so far apart that we can't really work together. I don't think anybody seriously believes that the Obama administration or the Bush administration had the view that they wanted to win every single case. And yet they had all these same concerns.

Chad P. Bown 33:26

But can I ask you, then, where is our constructive proposal to have this conversation? So we haven't gotten it from the Europeans or the Chinese or anything yet, but where is the American proposal for how to fix the WTO?

Stephen Vaughn 33:38

Well, one of the problems that we have is, I mean, when I look at the text of the DSU as it reads now,

Soumaya Keynes 33:44

that's the Dispute Settlement Understanding

Stephen Vaughn 33:47

I think that the Americans who negotiated that text did a pretty good job. I mean, when I read it, and I think when most American lawyers read it, it looks as though you have created a process whereby there will be a panel, and then there will be an Appellate Body but that Appellate Body is really constrained. It says that they have to make a decision within 90 days, it says that they can't change



the rules and obligations of the parties you have provisions like Article 17.6 that are supposed to give deference to members in sensitive areas like the anti-dumping laws. So on paper, it appears to look like a reasonable set of rules. In reality, none of those paper protections did the United States very much good at all. That's why I think you see the Americans keep coming back to this question. Until we understand why we are so far apart in terms of how to read the text, simply trying to come up with new text is really a waste of time.

Chad P. Bown 34:47

So there is no paperable solution to this problem.

Stephen Vaughn 34:52

I don't want to say there's no paperable solution to it. I mean, but I think there has, to me, I would think you would have to see some sort of a willingness for other countries to take more seriously the concerns that the Americans have expressed. And I think if people are thinking, well, this is just about the trade bar or well, it's just because the Americans want to win all the time. Well, that's not going to be very conducive and those conversations aren't going to be very productive.

Chad P. Bown 35:18

But we could have just written down what exactly it is that we wanted to see changed and see what the reaction would have been from an approach like that.

Stephen Vaughn 35:29

So for example, let's say that we said that we wanted to make sure that that they weren't going to add to the rights and obligations of the members. Well, it already says that. So I don't really, you know, it's not that simple to kind of just come in and say we're going to have these different pieces of text. I mean, when I read Article 17.6, for example, it's really, really clear. But when they read it, it has a completely different outcome. So there's an old school of law that goes back to the 20s at Yale called Legal Realism, and the Legal Realists were people who believed that what matters is not what's on the piece of paper, what matters is who the decision makers are, and the law is whatever they tell you it is. And to some extent, this is part of what we're wrestling with here. It's not just a question of what gets written down, it's a question of what's going to actually happen at the other end of that process. And so I think what the Americans have been trying to do is to have a more profound conversation here. And let's see, are we really capable of having a shared judicial process? Or are our understandings about law and policy so far apart, that we're just going to have to find other ways to work together?



Soumaya Keynes 36:44

So in a few weeks time, we're going to be in a system without the international rule of law anymore. We're going to be in a system where if you have a dispute, it's going to be power, some kind of negotiation that determines the outcome, at least if the dispute involves the US. I think some people are quite worried about what that means in terms of who will lose from that. Perhaps the EU and China can hold their own in those kinds of discussions, but smaller countries can't. There are concerns about what that does to the kind of legitimacy of any actions that the US does, the risk that you get lots of mini trade wars out there when you don't have the system that is meant to stop that from happening. So what's your response to those worries?

Stephen Vaughn 37:36

I think they're all really overblown. We have a trade agreement with Canada; we have a trade agreement with South Korea; we have a trade agreement with Australia; we have a trade agreement with Central America. We do lots of trade negotiations with countries that are smaller than us. And I think most of those agreements are really, really popular in the countries that we have them. We have a very open economy. We continue to run these very large trade deficits and are probably going to, we're going to have another one this year. And I think that all of these worries underestimate the level of support for free trade that exists inside the United States. The United States has been making trade policy for a really, really, really long time. And for the most part, they made their trade policy in manners and in ways that opened, you know, resulted in economic growth. So I'm not nearly so worried about these things as other people are.

Chad P. Bown 38:35

I know you're a bit of a history buff. Stepping back from all of this, what's your view on how we got to this point in the United States on trade policy, thinking back to the 2016 election? And what is the Trump administration's broader approach to this issue of populism and the challenges facing policymakers today?

Stephen Vaughn 38:59

Well, I think if you look at US policymakers in the years after World War II, I think they were really, really successful in terms of promoting free trade, and encouraging free trade, and opening up the US market. As you know, Chad, they went from an economy that was really largely a closed economy in a lot of ways for a long time after the Civil War to an economy that became more and more open as the time after World War II passed. And I think that one of the reasons that they were so effective about this is that they were very flexible in their thinking; and they were constantly updating the rules, and



making tweaks, and making adjustments as needed to maintain political support for this project. So that's why you hear about the Trade Expansion Act of 1962, and the Trade Act of 1974. and the Tokyo Round Agreements Act of 1979, and the Omnibus Trade Act of 1988. Because the American policymakers were making changes so that as the United States opened and became more exposed to trade, you were making sure that Americans were moving on board, right? So there were all these sort of trade-offs that they made along the line. By the late 80s and early 90s, these policies had been enormously successful; and the United States was at a time of great economic growth and optimism; and we had this great victory in the Cold War. And I think that US policymakers felt like now we can sort of put this on autopilot; and we can create this new system; and we don't have to change things; and we don't have to tweak. And I don't think that was correct. I mean, time passes; history moves on; and policies that may have looked good in the early 90s may not be as good 25 years down the road. And so we've been updating our tax policy; we've been updating our regulatory policy; and now I think it's time for us to start updating our trade policy.

Chad P. Bown 40:56

So was 2016 and the candidacy of Donald Trump a turning point?

Stephen Vaughn 41:04

I think if it is part of a, you know, it was definitely a very important turning point and inflection point in a lot of ways. But I think when people look back on it, they're going to see it as sort of part of a spectrum. Right. In other words, in 2008, candidate Obama and candidate Clinton were very critical of a lot of aspects of US trade policy. You had a lot of opposition to trade deals; and that opposition was growing. It was getting more and more difficult for presidents to get Trade Promotion Authority. As you know, you did have a lot of pushback against the Trans Pacific Partnership; and it would have been very difficult to pass that deal whatever happened in 2016. So I think this had been building for some time. And I would point out it's not just here right? You see it with Brexit; you see it with the yellow vest protests in France; you see it in a lot of the populist movements in other parts of the world. So I think it had been building for a while. And now I'm optimistic. I have a lot of faith in the US policy making process. And I think that we will find ways to manage globalization so that we will be able to keep the best of it, and yet alleviate some of the things that people have been complaining about.

Chad P. Bown 42:16

I suppose a counter argument might be, though, that a lot of the challenges facing American workers don't have much to do with trade. It has to do with just the changing nature of the American economy becoming less manufacturing-oriented, more a services-oriented economy. All these new technologies, the internet,



Soumaya Keynes 42:48

decline of unions

Chad P. Bown 42:50

...decline of unions. And by loading all of this on to trade, it may not actually be helping the very folks that have been suffering over the last 10, 20 years; and it may not help them adjust to the challenges that they're going to face in the future as technology continues to evolve and automation occurs; and they're forced to make these changes. So what do we do? What do we do then?

Stephen Vaughn 43:06

Well, one thing I think here, look, if you have if you have any organization and certainly one part of your organization isn't contributing in the way that it should, I don't think the answer is to say, well, that's only a small part of the organization, and let's just ignore that. I think what you try to do is you try to get all the different parts of the organization to work better. If we need better tax policy; or we need better regulatory policy; or we need more things for different things for union workers, however we choose to address this, we should do all that. But at the same time, if we need to make adjustments in the trade policy, we should make adjustments in the trade policy. To me, I don't think putting trade policy back on the ballot is going to make American politicians less responsive to these other concerns. It may make American politicians more responsive to the other concerns because as people have more faith in the trade policy, they may be more willing to say okay, well now I have confidence in the trade policy. Now let's talk about some of these other issues.

Chad P. Bown 44:04

I want to try to see if I can put my finger on how we disagree. As economists, we think of trade as being win-win. And yes, I can impose tariffs on you; and I can make myself slightly better off because of those tariffs. But the problem is, you can do the same thing to me; and we're both then worse off by doing this to each other; and we can both be made better off if we cooperate with each other, and we're more open. But it's going to involve both of us restraining what it is that we do; both of us giving up a little bit of sovereignty. And we can do that; and we will both be made better off. But that is a view of the world that I think economists have that maybe not everybody does share.

Stephen Vaughn 44:44



So I think I think again, I think you're conflating what policy outcomes you want with the process to get those outcomes. I would argue that from 1946 to 1994, the United States had very robust debates over trade. And the United States had uncertainty in its trade policy; and United States made adjustments to its trade policy; and there were elections fought over trade policy; and there were candidates who took responsibility for trade policy. And the result was a GATT system that flourished and grew; and that ultimately led to a booming economy in the United States and in Europe, and in East Asia; and that led to exactly the type of policy outcomes that you want. After 1994, we decided to take this out of the hands of the voters and out of the hands of elected officials. And we chose to sort of seal it up in this kind of cage, whereby policymakers wouldn't be able to touch it, and it would sort of run of its own accord. And the result is the rise of China, slowing economies in the West, dislike of globalization, the rise of populism, Brexit, and lots of other things that are actually tearing against the type of policy outcomes that you want. I believe that to get to have market efficient outcomes, you have to let the political process work and give it a chance. Otherwise, I just don't think you're ever going to get there. And so I think that your process is undercutting your policy outcomes. And I would urge you to kind of give the system more of a chance. And, you know, we're all taught in America, that you have your policy outcomes, but all that has to play out in our constitutional process. And I think that's correct. I mean, whatever you want to have happen, you're going to be more likely to get it and make it stick if it's something that the voters really believe in and really support.

Soumaya Keynes 46:48

Perhaps then we just disagree about what the political processes is driving us towards. Thinking about the recent trade wars stuff, there's evidence that the retaliatory tariffs....

Stephen Vaughn 47:03

So far the trade war process has gotten you to record low unemployment; it's gotten you to really low inflation; it's gotten you to a very high stock market.

Soumaya Keynes 47:11

Those things that would have happened anyway. The unemployment rate is not because of the trade war.

Stephen Vaughn 47:16

We disagree with that. I disagree with you on that. Look, if you go back and you look at what the projected outcomes that people were thinking about in 2016, we've done better than projected.



Soumaya Keynes 47:26

Okay. I mean, we'll agree to disagree on that one.

Stephen Vaughn 47:31

Well, we're not going to agree to disagree over the projections, because those are written in paper.

Soumaya Keynes 47:34

I think it's the causality that I'm disputing.

Stephen Vaughn 47:37

That is a different issue. But the point of it is that I think you're way too pessimistic over what these policy outcomes are likely to be. You seem to have bought into this idea that the Americans are just naturally protectionist; and that unless they are constrained by their abettors in other countries, that they will lash out and do all sorts of harm to themselves and to the world. And the history of the world just doesn't show that.

Soumaya Keynes 48:07

Really?

Stephen Vaughn 48:07

Really.

Soumaya Keynes 48:08

I thought the 1990s was the rest of the world saying America keeps on lashing out the rest of the world, we need to have the WTO so that they won't do that anymore.

Stephen Vaughn 48:17



Well, again, I don't think that's what, to me. that's not how I interpret that history. The United States didn't see it that way. The Americans believed, and I think the history shows, that they had built up a global trading system that was really, really effective. I mean, part of what we were told the WTO was going to do is it was going to get other countries to be more open to our products. But let me ask you this. Are you concerned that what the United States is doing is immoral? Or are you concerned that what the United States is doing is going to lead to bad outcomes?

Soumaya Keynes 48:47

So I think they are related. I think that when you have power, you shouldn't abuse it. And I think that if you do abuse it, then in the long run, it weakens the system. So I think if you're the Indians right now, you say, well, before, the Indians would hold all sorts of things hostage, everyone was super annoyed at the Indians, you could, you know, blame them for crashing various agreements. And now it's like, well, they're just doing what the US does. And so you lower the standard.

Stephen Vaughn 49:17

Well, let's start with the point about the issue of morality. To me, the moral question is, is the United States government being responsive to the American voters and to the American people? If it's not, then to me, that's not a proper way the government should act. It's our government; and ultimately, it owes a duty to us. We are meant to be a government of the people, by the people, and for the people. And they should get the type of government they want, not the type of government that seems best to others. I have much more faith than you do that the Americans are going to vote for open markets and efficient market outcomes because that's what they've been voting for pretty much continuously since the end of World War II.

Chad P. Bown 50:07

My concern on that, though, is when their elected officials aren't explaining to them, in my view, accurately as an economist, what the benefits of trade are, and where there are real problems with trade and US trade policy, and they conflate things that we shouldn't be concerned about, like bilateral trade deficits, for example.

Stephen Vaughn 50:29

I think there's always reasons to think that technocrats can make better decisions than the voters. But I think history has shown for the most part that the voters are better at knowing their own interests. And I trust them, and I trust our process. And I think that it's worse to interfere with that process than it is to try to work within it.



Soumaya Keynes 50:50

I guess this is just an empirical question. We'll find out. There is some evidence that voters were not happy with some of the retaliatory tariffs in the mid-term elections. I'm looking forward to seeing lots of evidence that that all this trade policy is going to heal all the workers and make them whole again and restore their love for globalization. Stephen, thank you very much.

Stephen Vaughn 51:16

Thank you for having me.

Chad P. Bown 51:18

And that is all for Trade Talks. A huge thanks to Stephen Vaughn for engaging in probably the most combative episode of Trade Talks we've ever had. I learned a lot.

Soumaya Keynes 51:27

I did too. Remember – do listen to other episodes of Trade Talks. And we would welcome any high level European officials to offer their response. Cecilia, you're welcome anytime. Phil Hogan, the floor is yours.

Chad P. Bown 51:43

And thanks to Collin Warren, our audio guy.

Soumaya Keynes 51:45

Do follow us on Twitter. I'm @SoumayaKeynes.

Chad P. Bown 51:47

And I'm @ChadBown.

Soumaya Keynes 51:48



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Chad P. Bown 51:52

That's not one but two underscores, @Trade__Talks. Because when it comes to senior trade officials coming on Trade Talks, two would be better than one.

Soumaya Keynes 52:02

Hey Cecilia.