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INTERNATIONAL LAW AND THE TRUMP ADMINISTRATION: TRADE AND INVESTMENT

This panel was convened at 9:00 a.m., Friday, April 14, 2017, with opening remarks by Mark Agrast, Executive Director of the American Society of International Law. Oonagh Fitzgerald of the Centre for International Governance Innovation gave additional welcoming remarks, after which the panel's moderator, Gary Hufbauer of the Peterson Institute for International Economics, introduced the panelists: Aaditya Mattoo of the World Bank; Warren Maruyama of Hogan Lovells LLP; Rachel Brewster of Duke Law School; and Michael Smart of the Rock Creek Global Advisors.

Opening Remarks by Mark Agrast

doi:10.1017/amp.2017.102

Good morning, everybody. Welcome to this session on International Law and the Trump Administration, Part II. This is the session on international trade and investment. I know folks are still joining us, but perhaps they can filter in as we begin. I don't want the panel to lose even a minute on this important topic.

I am Mark Agrast. I am the Executive Director of the American Society of International Law, and it's really a pleasure to welcome you. I hope that you're having a good experience at the annual meeting. We are sort of at the halfway point now, and, again, this is the second of three programs on "International Law and the Trump Administration."

I think you can imagine that when the annual meeting committee began work on putting this meeting together about a year ago, neither they, nor we, nor perhaps anyone else could have foreseen the changes that would come, that would confront international law and international institutions after the U.S. elections. Both the committee and the leadership of the Society felt that it would be very important to take account of all of this and not simply proceed with the meeting we were thinking of having, but to address our plans and consider this new legal landscape that we were facing. This has taken place, as I'm sure you have noticed, throughout the annual meeting, through our keynotes, through the various programs that were already scheduled, but also and particularly through these special programs that we have added. Some of you, I think, participated in yesterday's late breaking panel on the Syria strikes. So we are trying to make sure that international law and our Society remain engaged and relevant, whatever may come.

Again, this session is on trade and investment. This is part of an initiative that I hope you've been tracking over the past whatever portion of the first one hundred days of the administration we are in. As the administration started, we also started a new public engagement initiative, of which these three sessions are a continuation. The sessions exist primarily outside of the annual meeting context and consist of a series of live webcasts that are available free to the public. They have been featuring former senior administration officials of both parties, and the idea is to inform the broader public about the fundamentals of international law and why they matter, and why they matter to the individual, wherever they may be.

Those webcasts remain available. We are building up quite a library of them. We're doing them about every three weeks, and we hope that if you haven't sampled them you will do so. You can find them at our website, www.asil.org/100days. We may change that after the first one hundred

https://doi.org/10.1017/amp.2017.102 Published online by Cambridge University Press

days, which are about to expire, and we may call it the second one hundred days or we may call it what next, but please continue to support those programs and to share them with your friends and your institutions.

Now I'd first of all like to thank the ASIL annual meeting co-chairs, and particularly Julie Maupin, who is here. Julie, would you let people know who you are?

They coordinated not only the entire meeting but, in particular, these special sessions that we're presenting on these three days. I also would like to thank our longtime partner, CIGI, the Center for International Governance Innovation, for their sponsorship of this special series, and I'd like to introduce our colleague and friend, Oonagh Fitzgerald, who is the director of CIGI's International Law Research Program, to make some brief remarks before the panel begins.

Remarks by Oonagh Fitzgerald

doi:10.1017/amp.2017.103

Thanks very much, Mark. It's a pleasure to be here. Good morning, everybody, and thanks for joining us for what promises to be a very interesting session on "International Law and the Trump Administration: Trade and Investment." It's a real pleasure for the Center for International Governance Innovation to sponsor this panel. We are a nonpartisan, independent think tank focused on global issues of governance, law, politics, security, and economics, so I'm particularly pleased to see this exciting panel where we have not only lawyers but economists and all kinds of different expertise to discuss this important topic.

CIGI is based in Waterloo, Ontario, and we have fellows all around the world, working on issues of international economic law, international environmental law, intellectual property law, indigenous law, and international law. Yesterday, when I introduced the first session on "International Law and the Trump Administration," I mentioned a couple of sayings that we have in Canada about the close relationship we have with the United States, and one is a metaphor of the "sleeping with an elephant." In the area of trade, it feels like the elephant has not just grunted and twitched a little bit. He's rolled right over, and things are really changing in this domain. So we really are at a critical point in the international trading system. We've seen that the popular distrust has been growing on investment issues as well as in trade. Canada had quite a rough ride with the CETA agreement with the EU, and it's still working its way to final ratification. We've seen the Brexit vote, and the U.S. election, and, of course, the Trump presidency all posing all sorts of interesting issues for trade.

We've seen how trade has really benefited capital, multinational corporations. It's allowed them to arrange their intellectual property, taxes, and labor for maximum advantage. But we know that some people have been left behind by that and they seem to have risen up in many of the elections lately and referenda.

So what next? Do we give up, or is this an opportunity to look for something different? So it's either protectionism or reform. This may be an opportunity to think about such things as inclusive trade—how does one include the sustainable development goals within the trade and investment system? How do you include more women in trading—small and medium enterprises? How do you engage indigenous people and some national organizations? So I think there's a lot to discuss today and I'm really looking forward to this. Thank you.

Mark Agrast

Thank you, Oonagh, and without further ado let me introduce the moderator for today's session, Gary Hufbauer, who will take it from here.

https://doi.org/10.1017/amp.2017.102 Published online by Cambridge University Press