Trade policy under President Trump has departed sharply from previous U.S. trade policy over the past 80 years. In the past, U.S. presidents tended to see trade as a win-win proposition and in general supported global trade and international institutions. However, President Trump sees trade as a zero-sum game, with the trade deficit representing the scorecard. After taking office, Trump has taken aim at U.S. trading partners and international institutions, including the WTO, and blamed them for tilting the playing field.

This panel focuses on four broad issues, which have been the focus of the Trump administration: WTO dispute settlement and the Appellate Body, the use of the national security rationale to justify barriers to trade, special and differential treatment, and the compatibility of China’s model with the WTO.

With regard to the Appellate Body, the panelists recognize that the Trump administration has a few valid points. However, some of the problems with the Appellate Body have emerged through the natural development and operation of WTO dispute settlement and should not be attributed to either the dispute settlement body itself or other WTO members. Overall, the WTO dispute settlement mechanism has been a great success in building a stable and predictable rules-based system.

As to national security, the United States’ current approach of adopting unilateral measures to restrict trade creates uncertainties in the global trading system. An example is the use of the Section 232 statute to enact trade restrictions on the basis of national security concerns. The administration has invoked GATT Article XXI to justify these actions. While there are ongoing WTO disputes over these measures, the panelists realize there are limits to how the WTO dispute settlement mechanism can help here. Hence, the panelists proposed a rebalancing process for national security trade restrictions.

Third, the Trump administration has also challenged the current approach to special and differential treatment, arguing, in particular, that the ability of countries to self-declare as developing countries has created a false dichotomy between WTO Members. In particular, the U.S. has argued that there are a subset of advanced developing countries that are capable of taking on greater commitments, but avoid doing so. The panelists admit that the current system is flawed, and has not aided countries in achieving their development goals. As a result, they propose a more data-driven negotiation process, where countries express their need for differential treatment on a sector-by-sector, product-by-product basis in future negotiations.

Finally, the panelists argue that U.S. criticism toward China predates the Trump administration, and will certainly post-date it as well. The main complaints have centered around China’s compliance record and the WTO’s incompatibility with China’s economic model. However, China’s compliance record falls within the realm of reasonableness compared to other WTO members. Nonetheless, China should improve its practice in subsidies, intellectual property protection, and transparency. In addition, as China is getting wealthier, it should take on more responsibilities and offer as much liberalization as possible.