TRANSCRIPT
The Trade Guys Podcast

“World Peace Through World Trade”

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Transcript by Rev.com
Scott Miller: I'm Scott.

Bill Reinsch: I'm Bill.

Scott and Bill: And we're the Trade Guys.

Andrew Schwartz: You're listening to The Trade Guys, a podcast produced by CSIS, where we talk about trade, in terms that everyone can understand. I'm H. Andrew Schwartz and I'm here with Scott Miller and Bill Reinsch, the CSIS Trade Guys.

Andrew Schwartz: On this episode of The Trade Guys, we have a very special guest. It's Chris Padilla, the vice president for Government Affairs and Regulatory Affairs at IBM. Prior to joining IBM, Chris served as Under Secretary for International Trade and as an Assistant Secretary of Commerce for Export Administration at the U.S. Department of Commerce. We spoke with Chris about why trade matters to IBM and how it's navigated the global economy for over a hundred years now. Plus, we'll take a deep dive into digital trade and data value, all that and much, much more on this episode of The Trade Guys.

Andrew Schwartz: Chris, you are the guest we have been waiting for, especially because IBM has roots dating back to the 1800s and has been in this business of trade for a very long time. Tell us, what is IBM's relationship to trade now?

Chris Padilla: Well, it's been a longtime relationship with trade. If you go back in history, the founder of IBM, Thomas Watson Sr., who was the Bill Gates or the Mark Zuckerberg of his day, had a plaque on the side of the building at 590 Madison Avenue in New York, and it said, "World peace through world trade." He was a big believer in trade. He built his company, International Business Machines, IBM. He built his company around the idea that world trade is good for everybody and certainly was good for IBM. He built an international business and 70% of our revenue comes from outside of the United States still today.

Andrew Schwartz: What do you think he'd be saying to our government right now given that was his catch phrase?

Chris Padilla: I think he would say that, I think he'd say, "World peace through world trade."

Andrew Schwartz: Yeah.

Chris Padilla: He would say that he was also the chairman of the International Chamber of Commerce and believed in international rules to govern global trade. Remember, this was in the 1930s and there really weren't many international institutions.

Andrew Schwartz: Right.
Chris Padilla: There was no WTO, there was no GATT. There were systems of tariffs, there were imperial preferences. He believed that the best thing for the world and for the business community was to have more trade and that’s what he pushed as chairman of the ICC. Trade is in our, is in our blood at IBM. He’s in our DNA.

Scott Miller: He was way ahead of his time, though. If you think about it, I mean, it’s interesting because in the history of American trade, for most of the time we fought about it. Most of the time there was a high tariff party and a low tariff party, okay? And there’s a lot of contested ideas in the space except in the post-war period, thanks to Cordell Hull and some visionaries in terms of how World War II ended and how the allies worked together. That was the one period of time where trade was, in Mr. Watson’s terms, identified with world peace. In other words, trade was something you did to promote peace first and then it also had economic benefits. And because of that, there was one period of a bipartisan consensus in trade, which appears to have fallen apart again and may come back. Who knows? That was a visionary idea in 1930 that became U.S. policy post-war.

Bill Reinsch: You’re a very different company now than you were then. Back then, you made stuff-

Andrew Schwartz: Trade Guys, let’s ask about that for a second. Because you know, when I was growing up, everybody knew exactly what IBM did. There were all kinds of machines that people used that IBM made, but I’m not so sure that this generation of young people and people now, even my age maybe, know exactly what IBM does now. What does IBM do now?

Chris Padilla: IBM is in the data business. We manage data for the world. For example, 87% of the world’s credit card transactions are managed by IBM. Half the world’s telecom infrastructure is managed by IBM services. Nine of the top 10 retailers use IBM. If you got up this morning and listened to a song or you streamed The Trade Guys on Spotify-

Andrew Schwartz: Which happens all the time.

Chris Padilla: I hope so.

Andrew Schwartz: It does.

Scott Miller: We’re grateful to our subscribers-

Andrew Schwartz: And we love Spotify.

Chris Padilla: Spotify is a European company, right? If you’re a Spotify subscriber, some of your data probably moves between the United States and Europe so they can verify your credentials, check your password, did you pay your account this month? Maybe some of the songs are streamed from servers outside the United States. We’re in the business of helping companies, mostly
companies, to move that data. If you think about, you know, a day in your life, if you get up, you stream a song, you check the weather app on your phone, that involves the movement of data. We own the Weather Channel. If you check your weather app on your iPhone, it's the Weather Channel. You can find the weather and the humidity and the dew point of almost any place on the planet. That is-

Andrew Schwartz: I use that app every single day, wherever I am in the world.

Chris Padilla: Good. You should also go online and watch the videos, too, because that's very positive-

Scott Miller: And there's ad revenue in those videos.

Chris Padilla: I wouldn't have said that, but thank you.

Bill Reinsch: So is that how you make money? On the ad revenue?

Chris Padilla: That's how the Weather Channel makes money. 85% of IBM's revenue today, Bill, is software and services. We still have a hardware business. It's about 10% of the company, but most of the revenue is software and services and it's doing those kinds of things. It's processing credit cards. It's, you know, if you use your ATM card to get money out of a machine, IBM touches that transaction. Our service people probably manage the IT department of the bank. They've probably outsourced that to us. It probably touches an IBM mainframe, which is still our biggest hardware business. They've been around for 55 years and they still process most of the world's transactions.

Bill Reinsch: Do you still... and you make new ones? New generations?

Chris Padilla: We do indeed. They're still a very big part of IBM's business. If you think about who uses data, it's banks, insurance companies, retailers, airlines, if you make an airline reservation. Anyone that processes a lot of transactions probably works with IBM.

Andrew Schwartz: And that's everybody, because everybody uses data, and everybody processes transactions of one kind or another. When you just brought up the Spotify situation that you mentioned, I mean, that, logistically, I always wondered, how does all of this... 'cause I'm streaming Spotify all the time, every morning on my way to work, every evening on my way home. Sometimes in between. Certainly, you know, when I'm at home. It's a phenomenal service. I think it's almost revolutionary because when we were all kids, you would go to a record store and you would buy a record and it would be $12.99 and you would own those 10 songs. Now, you spend less than $12.99 a month on your Spotify subscription-

Chris Padilla: Right.

Andrew Schwartz: ...and you own everything.
Chris Padilla: And that's the data economy. That's the data revolution. Right? And that's why rules about data and digital trade are so important because that part of the economy, it is exploding.

Bill Reinsch: We've talked about that in the past, that that's the area of growth. The greater growth in goods trade is declining, but it's exploding in services and digital transmissions.

Chris Padilla: Digital transmissions, digital trade, according to McKinsey, is actually a bigger contributor to global GDP than trade in manufactured goods. People don't talk about it as much because it doesn't hurt when you drop it on your foot.

Bill Reinsch: It's intangible.

Chris Padilla: You can't see it, touch it, but if you think about it, you see it and touch it every day. Every song you stream, every time you put your credit card into a terminal at a retailer, every time you make an online purchase, or reservation.

Andrew Schwartz: Every subscription you have.

Chris Padilla: Every subscription. All of that is the data economy and it is exploding. And so, if you think about, here's an interesting statistic, again from McKinsey, every minute of every day 80 terabytes, that's 80 trillion bytes, of data move in and out of the United States. Every minute, 80 terabytes of data.

Scott Miller: 80 terabytes.

Andrew Schwartz: All right so put that in perspective for us, Scott, 'cause I know-

Chris Padilla: I can put it into perspective for you.

Andrew Schwartz: Scott’s IBM machine in his head is-

Chris Padilla: Scott’s doing the math. I'm bad at math.

Andrew Schwartz: Yeah, Scott's brain is whirling. I can see the IBM machine in Scott's head is whirling.

Chris Padilla: Well, it's eight Libraries of Congress-

Scott Miller: Right.

Chris Padilla: ...every minute of every day.

Scott Miller: Every minute.
Andrew Schwartz: Eight Libraries of Congress, every minute of every day.

Scott Miller: That’s just the United States.

Chris Padilla: And that’s just-

Scott Miller: In and out of the United States.

Chris Padilla: That’s just in and out of the United States. That’s not even counting-

Scott Miller: That’s not domestic transactions-

Chris Padilla: Domestic data flows, right? That’s global. That’s international data.

Scott Miller: International data flows to and from the United States.

Chris Padilla: Between the United States and other countries.

Andrew Schwartz: When you really think about that, it’s almost inconceivable.

Chris Padilla: It is almost inconceivable but it’s vital to the economy because now every day, every company, every consumer is involved in data.

Andrew Schwartz: This is really what we’re talking about when we’re talking about, “We have an information economy.”

Scott Miller: Oh, absolutely.

Chris Padilla: Yes.

Scott Miller: Oh, well we, we know that 80% of the jobs in America are services jobs. All right. And those services jobs are, by and large, digitally enabled and becoming more intangible all the time. There’s more content in services jobs in this digital or intangible economy than it was yesterday or the day before. That’s what Americans do for a living, including all of us.

Andrew Schwartz: Right.

Scott Miller: We’re in the services business.

Andrew Schwartz: Just the subscriptions alone because, if you think about it, you know, premium content now is what everybody is consuming. In America alone, 133 million of us have Netflix subscriptions. That’s astonishing, right? Another hundred and some million have Amazon Prime subscriptions. That’s from streaming alone from those services. Let’s not even go to YouTube because when you talk about YouTube, you’re talking about 1.8 billion streams per month. You’re talking about a lot of streaming, a lot of
information flowing. The people who are coming up these days aren't cord-cutters, they're cord-nevers.

Bill Reinsch: What percentage of that is cat videos?

Andrew Schwartz: You know, I don't think a lot. I think premium content is not cat videos. Premium content is the great stuff you see on Netflix.

Scott Miller: Not that there's anything wrong with cat videos.

Andrew Schwartz: No. We love cat videos here at The Trade Guys. I mean, you know, look-

Bill Reinsch: We are not at iCat-

Andrew Schwartz: The cat videos have their place.

Bill Reinsch: We're not at iDog either.

Andrew Schwartz: Cat videos have their place in the global trade economy-

Chris Padilla: Well, you know why? Because you can make money off of it.

Andrew Schwartz: Exactly.

Chris Padilla: That's what's different. What's different now about data? The data has always been around, right? You used to write data in a ledger book or you would keep it on IBM punch cards, right, back in the days before computers. The difference about data now is you can, you can assign value to it and therefore that's why it's important in the trading system because the trading system sets rules for things that have value, right? Whether it was agriculture commodities or manufactured goods, or intellectual property. Now it's data and people are realizing this has value. What you're starting to see is governments taking measures to try to protect it-

Bill Reinsch: And to tax it.

Chris Padilla: And to tax it. It is a thing of value and it is growing very fast.

Scott Miller: Well, let's then apply that to what's going on in the trade world today, because official Washington is really consumed with U.S.-China trade tensions and the tariffs associated with it. The other key story that's gotten relatively little attention are the tax policies of, in this case, France and the UK, American allies, about taxing data.

Andrew Schwartz: Right. All of the sudden, France is, you know, talking about taxing technology-

Scott Miller: Right.
Andrew Schwartz:   ...and we're talking about retaliating-

Scott Miller:    Doing it in such a way that it affects, basically, the big American companies. Which one did you worry about more before you came here this morning and why?

Chris Padilla:   Well, I think what we're seeing in both the trade and tax world is governments are waking up to the fact that data has incredible value, and that it does move across borders and they're beginning to adopt policies that will affect that. Taxation is one of them. Another one is saying, "You have to store all your data within my national borders if you want to do business in this country." If you want to process credit card transactions in India, the Indian government is now saying, "You have to store all the data in India," which doesn't make economic or technology sense, but is frankly a protectionist measure that is being adopted. Other governments are saying, "Well, in the name of privacy or national security, we're going to restrict you from moving those 80 terabytes of data a minute across a border." If you think about what happens if there's not 80 terabytes and, instead, there's only one or two, that means it's not as easy to check your weather app or get your Spotify stream or look at the cat videos, or, more importantly, do things like logistics data for express shipment companies or manufacturing data. That's really the challenge, and what we're facing now is, are governments going to put barriers or are we going to have rules in place that prevent that before it happens?

Bill Reinsch:   I think what we're looking at, sadly, is the fragmentation of the internet. I mean, the Chinese are pursuing all the policies that you've described, partly for political reasons. They want to control their population's access to data from the outside, which means political views from the outside. We've also got the Europeans and GDPR-

Chris Padilla:   Yes.

Bill Reinsch:   ... an approach to privacy which is much more restrictive than us. I think the Americans... I'm not sure that we really have a policy on this except that we don't like the other two policies.

Scott Miller:   Well, with GDPR, there's a distinction between ... and the distinction is how the data is treated versus where the data is sold. So, you've got the Europeans who want to say how the data is treated, and you have the Indians who are saying where the data is stored, and those are different problems for a company like IBM.

Chris Padilla:   They are.

Bill Reinsch:   But it makes it... it leads to the outcome that Chris was talking about-

Scott Miller:   Yes.
Bill Reinsch: ... which is fragmentation and uncertainty about the ability to transmit data. I mean, are you encountering... is this a theoretical problem or a real-world problem?

Chris Padilla: No, it’s a real-world problem. I’d say there are three main camps. There’s the China, Russia, to some extent India, who want to basically create a walled garden, right? They want to put up walls around their internet and very much restrict what can go in and go out for different reasons. China and Russia rather, it’s more political.

Bill Reinsch: It’s political control, yeah.

Chris Padilla: Exactly. India is a little bit more traditional protectionism, driven by some domestic companies who don’t want to compete with global players. Then you have the European perspective where they generally understand the benefit of the free flow of data, and in fact they have free flow of data within Europe. The digital single market was a big accomplishment of the Juncker Commission, which is finishing its mandate. But, they’re not so sure about data transfers with others outside the European Union unless you have strong privacy rules. And then there’s more of a camp that’s the U.S., and I would say strongly led by Japan. Also Australia, Singapore, the countries that were in the TPP. Also Mexico and Canada, which basically believe that the default should be that data should flow freely unless there’s a darn good reason why it shouldn’t. Those are the rules that are in the TPP and that are in the USMCA and that the Japanese have been pushing.

Bill Reinsch: How much do you think the European policies, including their tax policy... I was at a breakfast this morning with a European business rep, and this came up. How much of the European policies do you think is driven by the fact that they don’t have an IBM, they don’t have Google, they don’t have a Facebook? And their approach to competitiveness, we’ve talked about this before, you run fast or you hold the other guy back. They’re not focused on them running faster. They’re focusing on holding us back.

Chris Padilla: Well, I think the Europeans have SAP, which is a pretty big software company.

Bill Reinsch: They have Spotify.

Chris Padilla: And they have Spotify.

Bill Reinsch: They don’t have you.

Chris Padilla: Well, they do have us.

Andrew Schwartz: Siemens.

Chris Padilla: Well, we’ve been in Europe for 100 years. I mean, IBM is 108 years old. We’ve been in Europe for 100 years. We have almost as many people and
revenues in Europe as we do in the U.S. Having said that, I actually think this more comes from just a different cultural and regulatory approach, which is the Europeans tend to take a precautionary approach, right?

Bill Reinsch: Yes.

Chris Padilla: The precautionary principle that you guys talk about in trade, means, well, this is a new thing, and we have to be careful, so we’d better regulate.

Bill Reinsch: If you can’t prove it’s safe, regulate it.

Scott Miller: Versus the U.S. standard is sort of reasonable certainty of no harm and there’s a lean forward. In the GDPR negotiations, you could see this because it was DG Justice that handled the negotiations for the European side. It was the Commerce Department for the U.S. That’s a total culture clash.

Andrew Schwartz: So we’re lean forward. They’re hold and wait and be careful.

Scott Miller: Look before you leap, yeah.

Andrew Schwartz: It’s a bit of a clash.

Chris Padilla: A bit of a clash. You also have, particularly in countries like Germany because of their experience under the Nazis and then under the Stasi, a real strong concern about personal privacy.

Andrew Schwartz: Yes.

Chris Padilla: So, I don’t discount where Europeans are coming from. I think there’s a real debate within Europe about those who see the economic benefits of free data flows, and they did this in the digital single market, right, versus those on the more traditional privacy side, particularly some of the Germans who feel like, “Well, we’re not so sure about that. We don’t really trust these American companies, and so let’s be careful.” I personally think that’s a manageable difference.

Andrew Schwartz: Yeah.

Chris Padilla: I think had we gotten TTIP, that could have been negotiated between the U.S. and Europe. The bigger issue is who’s going to write the future rules of the economy? Is it going to be free data flows are the default, or is it going to be we control everything? That’s where we really need U.S. leadership.

Andrew Schwartz: Yeah, having just returned... I was just in Germany on vacation with my family, and we saw some really amazing things. One of the things I sensed was that there is such a difference between the way they’re thinking about privacy, and that extends to things, not just like your data, but also things like facial recognition. There were art exhibits about facial recognition that we saw that were modern art. A lot of us in America view facial recognition
as something that’s really helpful. It’s helpful fighting the War on Terror. It’s helpful if you have Global Entry, and you can get into the United States really easily without having to go through an extensive process when you return. There, it’s a much different feeling. Of course, it does come from the Nazis. It does come from World War II, and they’re very sensitive to it.

Bill Reinsch: Well, it’s... the other divide that we talk about periodically is the First Amendment divide. They have rules about hate speech. They have a whole history that suggests they have good reasons to have rules about hate speech. We have the First Amendment.

Andrew Schwartz: Yeah, it’s illegal to do a Nazi salute in public in Germany.

Bill Reinsch: Or to sell Nazi memorabilia.

Andrew Schwartz: Yeah. Well, I’m not so sure about that. I think you can sell it, but you can’t have a swastika tattoo in Germany. You can’t have... you know, there really is, and with good reason, serious laws about that. It’s a different culture, and I’m sure you’re dealing with that all the time. That must speak to, how do you rewrite the rules?

Bill Reinsch: How do you deal with that as a company?

Scott Miller: Yeah, how do you deal with that?

Chris Padilla: Well, the thing about facial recognition, it’s an interesting point because facial recognition is essentially just a math problem, right?

Andrew Schwartz: Right.

Chris Padilla: It’s a machine that looks at your face. It measures the distance between your eyes, the shape of your nose and so forth. It’s really no different than a fingerprint, which is also a math problem. It looks at what’s on your finger, and it does a calculation and verifies that you are you. This is an important thing about introducing technology with responsibility. You have to be cognizant of the fact that for people, facial recognition, a machine that can recognize you is just different. It raises concerns. I think that that’s why these technologies have to be introduced with care and responsibility. You can’t just say, ”Hey, here’s this great new innovation. Everyone should use it.” There’s potential for it to be misused.

Andrew Schwartz: So at cocktail parties, do you get hit up, people come to saying, ”What are you guys doing, man? Are you about to...” Has that happened to you?

Chris Padilla: I feel like cocktail parties I could use facial recognition, because people come up to me like, ”Hey, great to see you again,” and I’m like, ”Hey, great to see you too,” and I cannot remember who they are.

Andrew Schwartz: On the Hill just say, ”Madame Chairwoman, Mr. Chairman.”
Chris Padilla: Right.

Andrew Schwartz: Good to see you.

Bill Reinsch: It gets complicated though because of where you draw the lines. This came up in a meeting we had six months ago here where we were talking about an area you’ll know about, the Commerce Department’s work on defining emerging technologies. I was surprised. We had government representatives here talking about what they were looking at. I was surprised to have a company bring up the question of facial recognition as a technology that needed to be thought about in the context of an emerging technology. It was interesting because they were trying to draw a line. The line was if you use it on your phone to unlock your phone because the phone looks at your face and says it’s you, that’s okay because that doesn’t have privacy implications, and it’s a good security device. But, if you use the same technology and employ it with 30,000 cameras around the city and use it to identify people that you then subsequently arrest for whatever purpose... The particular example is what the Chinese are doing in Xinjiang Province to the Uyghurs, that’s not okay, but it’s the same technology. How do you draw the line?

Scott Miller: Technology is just technology. Think about the discovery of fire. The discovery of fire made major advances in civilization and in our survival, but it had some downsides. The same thing. We have lots of conversations on autonomous vehicles, and yes it’s an area where there are identifiable risks, but everybody in this building took an autonomous vehicle today. It’s called an elevator. Elevators were very controversial when they were introduced without elevator operators. We’re going to put people out of work. The safety concerns were magnified among people.

Andrew Schwartz: Let me tell you, when I stay at the Carlyle in New York and there’s an elevator guy in there, it drives me crazy.

Scott Miller: Oh, yeah. I mean, that’s the-

Bill Reinsch: Because he won’t let you off of your floor?

Scott Miller: That’s how far we’ve come. You’re accustomed to the autonomous vehicle.

Andrew Schwartz: There are too many people in the elevator.

Scott Miller: Delivered you to your office.

Chris Padilla: We still have elevator operators on some elevators in the Capitol.

Bill Reinsch: In the Capitol building, yes.

Chris Padilla: You run into them in the Capitol building. I guess, senators can’t press the button.
Andrew Schwartz: No, they're not allowed.

Chris Padilla: Scott makes a good point. It's not so much about the technology as about how it's used. Where governments should be involved is less in saying, "We're going to ban this technology," as in saying, "How do we use the technology?" Bill, you'll know this from your old export control days, it is illegal to sell fingerprinting equipment for certain uses to certain countries-

Bill Reinsch: Yes.

Chris Padilla: ... that are controlled for crime control reasons because we're worried about their human rights record, right. But, you could sell them a facial recognition system. The controls have not been updated, but those are controls based on use. A fingerprinting system that says, "Yes, I'm Chris, and I can get in the door," is okay, but a fingerprinting system or facial recognition system that says, "That's the guy that was in the square holding the sign that I didn't like."-

Bill Reinsch: Yes.

Chris Padilla: ... that's where you get into the need to control and use cases.

Bill Reinsch: This is a great opportunity for a joke. Can I tell a joke?

Andrew Schwartz: By all means.

Bill Reinsch: When I first got the job at the Commerce Department doing what Chris is talking about, I was approached by a guy in the business community, said, "If there's one thing you need to do, it's to rectify the discrepancy on licensing instruments of torture because you require a license for exporting instruments of torture, whips and chains and things like that, to non-NATO countries, but you don't require it to export these items to NATO countries."

Andrew Schwartz: Okay, for those of you who can't see us because you're listening, Scott, Chris, and I all have very disturbed looks on our faces.

Chris Padilla: Where is this going?

Andrew Schwartz: But please continue, Bill.

Chris Padilla: Is this a family podcast?

Andrew Schwartz: It is. So please continue, Bill.

Bill Reinsch: It is R-rated, but it gets better. So I said, "This sounds reasonable." So I task one of my people to look into this, and as is typical-

Andrew Schwartz: This is real?
Bill Reinsch: As is typical... This is a true story. As is typical in the bureaucracy, three months go by and nothing has happened. So I run into the person in the hall, and Chris knows exactly who it is that was doing this. I run into her in the hall and say, "Well, whatever happened to the whips and chains?" She starts to laugh, and says, "Well, we were on track to expand the licensing because end users are end users," and we got a letter from the State Department that pointed out that we had forgotten to take into account the concerns of the consensual sadomasochistic market. These items were dual use, in every sense of the word.

Chris Padilla: Do they have a trade association?

Bill Reinsch: They didn’t then.

Scott Miller: I don’t think I want to know.

Bill Reinsch: But I went back. It gets better. I went back to the guy who started all this, and said, "Well, we have this problem. We forgot about the sadomasochists." And he doesn’t miss a beat. He just looks at me and says, "Well, they’ll just have to suffer."

Andrew Schwartz: Oh no.

Scott Miller: Your tax dollars at work, ladies and gentlemen.

Bill Reinsch: And to show you the politics of this, we went ahead and did it. We expanded the licensing requirement, and then were criticized by Amnesty International for not banning it entirely.

Andrew Schwartz: You cannot make this up.

Bill Reinsch: I’m not making it up. It actually happened. It’s one of my favorite stories.

Andrew Schwartz: Oh my goodness. Well, you heard it first.

Bill Reinsch: But Chris makes an important point.

Andrew Schwartz: Listeners to The Trade Guys have really, really received a treat this week, and Chris, thank you for-

Chris Padilla: I didn’t bring it up. Let the record show.

Andrew Schwartz: I know you did not bring it up.

Chris Padilla: I thought we were going to talk about digital trade.

Andrew Schwartz: I did too. I did too. But yeah, I guess this is a form of Commerce Department shop talk.
Bill Reinsch: No, it... but no. It's an important point, and Chris has made it, which is the approach that the government has taken for the last 30 years has really been, "What are you going to do with the technology?"

Scott Miller: Correct.

Bill Reinsch: It's what Scott said. It's not just the technology is neutral, it's the end use. When I was doing this, the issue was not facial recognition technology. It was high-performance computers. The government made a decision that if it was going to a bank for customer management, if it was going to the state railroad in China for schedule management, that was okay. If it was going to a company that was making stuff for the People’s Liberation Army, that was not okay. Now, if you think about it, that raises a whole bunch of enforcement questions as to how do you know the bank isn't going to resell it to the PLA once it gets there? That gets into a whole other thing about how the government manages that, but end use is the key thing.

Chris Padilla: And the same is true for data. How you regulate data is going to depend on how it’s used, and so if you’re using data and transmitting across borders data to do things like transaction processing and keeping track of express delivery shipments and streaming songs and so forth, that’s fine. But then governments start to say, "Well, what about data that I don’t want to be transmitted. Things that, you know… pornography, or things that are threats to national security.

Scott Miller: Or personally identifiable private information.

Chris Padilla: Personally identifiable private information. Your health and financial records. And this is where the discussion on rule-making needs to go because right now there are no rules, right. We just said earlier this part of the global economy is now bigger than manufactured goods. There are thousands of pages of tariff schedules governing trade in manufactured goods around the world. There’s virtually nothing about how the data-

Bill Reinsch: And what is the right institution to undertake that kind of exercise?

Chris Padilla: Well, there are a number-

Bill Reinsch: Or isn’t there one?

Chris Padilla: … of different negotiations going on. There’s a negotiation going on in the WTO that was launched earlier this year in Davos actually by trade ministers. A WTO negotiation on e-commerce.

Bill Reinsch: This is the 75 countries thing?

Chris Padilla: Yes.

Bill Reinsch: Yes.
Chris Padilla: But there are, more importantly, negotiations that are going on and language that’s been agreed in important regional trade agreements. So, the USMCA, “Yousmacka” as Scott has named it-

Andrew Schwartz: Yeah.

Chris Padilla: … has a digital trade chapter that is actually state of the art. It is the best language on digital trade of any trade agreement bar none anywhere in the world.

Scott Miller: Good to know.

Chris Padilla: And if you listen to Ambassador Lighthizer testify on the Hill, he highlights the digital trade chapter as a strong achievement, and rightly so. There was good language in the TPP. There is language in the CPTPP. At the G20 in Osaka a few weeks ago, Prime Minister Abe held a meeting with leaders, President Trump sat right next to him, and they talked about free flow of data.

Bill Reinsch: With trust.

Chris Padilla: With trust. FFTD because, you know, it’s trade so we have to have an acronym.

Bill Reinsch: That’s a florist thing, isn’t it? Or a-

Chris Padilla: Close, yeah. Anyway, the good news is-

Scott Miller: We need to get back to the acronym factory.

Andrew Schwartz: If you can deliver it, it’ll be great.

Scott Miller: Yeah.

Chris Padilla: I’m sure, but maybe with a balloon with that. But the point being, the Japanese, among others, have taken a strong leadership role in saying, "We need rules. We need to create an architecture." It’s a little bit of a unique system, or situation rather where you have all these rules, you had all these tariffs governing farm goods and manufactured goods, and a lot of post-war history was how do we remove those barriers? This is a situation where we’re trying to write the rules before the barriers get put in place.

Andrew Schwartz: This is fascinating. Do you think there needs to be a new institution like the WTO that focuses just on the rules of digital trade?

Chris Padilla: Well, I wouldn’t focus so much on the institution as I would that there need to be rules. I think if we could get the language that’s in USMCA to be replicated in other trade agreements, including trade agreements that other
countries do that don’t include the United States, that would be a great outcome. If we can get it in the WTO, that’s great too.

Scott Miller: You start at... it started as the GATT, a general agreement on the subject, and expand the membership ‘til it needs an organization and turned it into the WTO. So, that actually makes a lot of sense.

Bill Reinsch: Are you optimistic about the thing that began at Davos, the 75 countries?

Chris Padilla: Well, you have to be optimistic to be in trade, right? Otherwise you couldn’t do work in this field. But it’s a large group of countries, and China’s included. So you’re going to have very, very different points of view. Like a lot of WTO negotiations, will you be able to get consensus? I don’t know. It’s worth trying. Maybe you get at least a baseline agreement in the WTO.

Scott Miller: Maybe 75 countries is too many.

Chris Padilla: It may be.

Scott Miller: Maybe you start with 50 or 30.

Chris Padilla: But maybe if you get 75 or a few, a bunch who can agree on some very basic rules-

Scott Miller: Yeah.

Chris Padilla: ... that’s a place to start. But at the same time, and in parallel, you also need agreements like TPP, USMCA, and others where you have chapters that say, "Hey, between us-" like within North America once USMCA comes into effect, hopefully it does, we will have the best standards on digital trade anywhere in the world, and that’s a great template.

Bill Reinsch: Just out of curiosity, do you know if the EU-Japan agreement has equivalently good language-

Chris Padilla: No.

Bill Reinsch: ... or whether the Canada and EU agreement has equivalently good language?

Chris Padilla: It does not generally because under this commission, the EU has not wanted to include data flows in trade agreements.

Bill Reinsch: So it’s not there at all.

Chris Padilla: There’s some language, but it’s very weak. Their concern has been privacy über alles, right? Privacy trumps everything, and there’s I believe a mistaken view by some in the commission, not everyone, but some, that if you have
free flows of data, that somehow that’s going to implicate this GDPR, their privacy regime, which is... They’re very proud of it-

Bill Reinsch: Yeah.

Chris Padilla: ... this shiny thing they've got on the shelf and they don’t want anybody to touch it. I think you can actually have free flows of data that respect the GDPR, and there are ways to do that. I’m hopeful we could have that conversation with the Europeans. Certainly if we have a U.S.-EU trade agreement, that’s something we've urged USTR to raise.

Andrew Schwartz: Do we need to adopt something like their GDPR?

Chris Padilla: We do need federal privacy legislation in the U.S. We have a series of state laws. They’re not the same. California’s about to have a very restrictive one that comes into effect. We need a federal standard. We don’t need 50 different state laws. IBM and a lot of people in the industry support that. Whether Congress can do it or not-

Bill Reinsch: How complicated is it for your company to have to deal with incompatible state laws?

Chris Padilla: It’s an annoyance.

Bill Reinsch: Do you default to the most restrictive, or do you try to-

Chris Padilla: Generally. Most companies generally tend to try to default to the most restrictive because that just makes it easier.

Scott Miller: A lot of your customers have defaulted to GDPR.

Chris Padilla: They have indeed.

Scott Miller: For that exact reason.

Chris Padilla: They have indeed. A lot of customers have done that. So GDPR’s a good example. The Europeans got out ahead and wrote rules on privacy that have become, I wouldn’t say the global standard, but they’re the only game in town right now.

Bill Reinsch: You can’t fight something with nothing.

Chris Padilla: Exactly. So on digital trade, our point has been to this administration and to others, "Hey, we got to get out before others who want to create walled gardens write the rules." Because you don’t want to live in a world where you cannot have a lot of cross-border data flow. Where you don’t get eight Libraries of Congress a minute moving because then you can’t do the things we’ve become accustomed to every day.
Andrew Schwartz: And is this administration, and also the Congress, receptive to that message?

Chris Padilla: Yes, both.

Andrew Schwartz: Both.

Chris Padilla: This is still a bipartisan issue. There's language-

Andrew Schwartz: Good to know that there's some left.

Chris Padilla: There's still some left. There was strong language in the latest TPA bill that actually directed the administration to have strong digital trade language. This administration, to its credit, has been very aggressive on this. I remember this came up in a meeting, the first meeting that tech leaders had with President-elect Trump then at Trump Tower in 2016 before he took office, and there was a dialog about tech issues. Digital trade came up, and the provisions that have been negotiated in USMCA are world-class. If you listen to what President Trump said at the G20 meeting in Osaka, read his statement. It's on the White House website. He calls for global rules around digital trade.

Scott Miller: There you have it. That's impressive.

Andrew Schwartz: Chris, this has been fascinating, and a real joy for us to be able to talk about this in some depth. We'd love to have you back as this discussion continues on. Thank you so much for being here with us today.

Chris Padilla: Thanks very much.

Andrew Schwartz: To our listeners, if you have a question for the Trade Guys, write us at TradeGuys@CSIS.org. That's TradeGuys@CSIS.org. We'll read some of your emails and have the Trade Guys react to it. We're also now on Spotify, so you can find us there when you're listening to the Rolling Stones or you're listening to Tom Petty or whatever you're listening to. Thank you, Trade Guys.

Scott Miller: Thanks, Andrew.

Bill Reinsch: Thank you.

Andrew Schwartz: You've been listening to The Trade Guys, a CSIS podcast.