

Interview with Dr. Marion Jansen, Director of the Trade and Agriculture Directorate of the OECD

Overview of the Roles of the OECD in Framing a Rules-Based Global Economic System

By *Japan SPOTLIGHT*

As the US-China decoupling has become a real concern under the current methods of global governance, we will urgently need to find relevant venues to discuss possible solutions to achieve a rules-based global economic system. Dr. Marion Jansen, director of the Trade and Agriculture Directorate (TAD) of the OECD, has worked for over 10 years as a trade policy analyst at the WTO and provides us with an overview of the roles of the OECD as such a venue.

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Multilateral Trade Regime in Crisis?

JS: How do you see the current situation regarding the multilateral trade regime? I would like to know your views and how you think we could restore a free trade-based global trade regime. Do you have any views regarding reforming the WTO? The 12th Ministerial Conference (MC12) in November in Geneva, Switzerland, was supposed to discuss it but it was postponed.

Jansen: The multilateral trading system has gone through difficult times, but this is not new. The concerns of certain members about the functioning of the multilateral trading system have been around for some time and have maybe found their starkest expression in the fact that it has not been possible to re-elect judges to the appellate body system, and therefore for some time now the appellate body has been dysfunctional. So we have seen a very explicit weakening of the structure of the organization through this. But this is something that happened over a period of several years. In the meantime, I believe that we have started to move out of this downward spiral one or two years ago and are now transiting into a new dynamic. I believe that with the arrival of a new and very dynamic director-general at the WTO, Dr. Ngozi Okonjo-Iweala, there is a real opportunity to bring back positive dynamism to the multilateral trading system.

We see more explicit support by members for the multilateral trading system as such, including in G20 statements compared to 2018/2019, more explicit support from all members who want to make it work. Now the question is, how to do this? Many things need to be done for this. In a book I co-edited two years ago titled *Women*



Dr. Marion Jansen

Shaping Global Economic Governance (International Trade Centre, 2019), we argued (1) that it is important to rebuild trust; (2) that we need to be willing to bring bold new ideas into the debate, and (3) that it is important to “move beyond coherence”, and to look in a more proactive way at issues that go beyond trade. An example of a theme that goes “beyond trade” would be the topic of trade and environment.

One initiative that Dr. Ngozi wants to discuss at the WTO is access to Covid-19 vaccines. I consider this an important initiative to rebuild trust in the multilateral trading system and believe that the public will be watching this initiative closely. I therefore very much hope that WTO members will be able to deliver something on that initiative

that is of symbolic nature. This initiative is also relatively new and bold for the organization, and it should be welcomed that Dr. Ngozi took this initiative.

On the OECD side, we are very proactively looking at the aspect of “beyond coherence” mentioned before: how can we build an environmentally sustainable economy in an open environment? How can we ensure that the benefits of trade are distributed to all? How do we ensure that different countries and different companies are working on a level playing field? There is a very active debate and a lot of work is being done in that direction. I am very positive that we will manage to further strengthen the multilateral trading system and to rebuild trust in it.

It is unfortunate that MC12 was postponed, but the recent endorsement by 67 members of the joint initiative on services domestic regulation shows in my view that members are willing to continue working and able to strike deals. The OECD has estimated that this initiative – when implemented – can bring gains of \$150 billion per year to participating members, and I would like to

highlight that both the United States and China are part of the initiative. I think this is a very positive signal, and this endorsement took place notwithstanding the postponement of MC12.

Vaccine Distribution & WTO

JS: You mentioned facilitating access to vaccines as being a key role of the WTO. Do you think that the urgent need to achieve fair and equal distribution of vaccines and also personal protective equipment (PPE) would strengthen the incentive to restore the WTO?

Jansen: We have seen that open markets have been very helpful during the pandemic. For instance, when it comes to ensuring the distribution of PPE and items like testing kits, it is true that in many countries – including my home country Germany – during the beginning of the pandemic the population suffered from a lack of access to masks and items like disinfectants. There was an impression that this lack of access was due to supply chains not functioning. We have shown in our work at the OECD that this is an inaccurate interpretation of what happened.

At the beginning of Covid-19, we saw a huge increase in demand for PPE, for other pharmaceutical and sanitary items related to the crisis, and a huge increase in demand across the globe. In every country across the globe, more masks and disinfectants were being bought, and there was more need for some types of medical equipment to deal with the crisis. It was impossible to satisfy this demand immediately, but it did not take supply chains long. Within one month, for instance, we saw the global supply of masks being increased tenfold. This wouldn't have been possible if every country had started to increase supply of masks and everything else needed during the pandemic on its own and in autarky. In fact, we have shown in our work that it would have been impossible for countries to deal with the crisis on their own. Instead, it was useful that we had open markets and that global supply chains were functioning.

When it comes to an item like vaccines, we have multiple complicating factors at play. These are pharmaceuticals that require heavy investments in research and development, and in setting up logistics chains. To make this happen, you need some type of protection for the investor into this R&D and therefore mechanisms like intellectual property protection exist. You also require coordination to put the logistics systems in place. If you have to do all of this rapidly it requires coordination and collaboration among countries, and this is something we have been observing and should ideally be seeing a bit more of if we want to ensure equitable access

to vaccines. At the OECD, we have expressed our support for the discussions that are going on regarding this item at the WTO.

Export Restrictions & WTO

JS: At the start of the pandemic, some countries implemented some export restrictions, and these did not seem to be consistent with one of the WTO articles. Perhaps the WTO should strengthen efforts to control these export restrictions as the first step of an initiative to achieve free and fair trade.

Jansen: The WTO has had mechanisms in place to do this, but to be more effective in addressing these not helpful kinds of policy interventions, a well-functioning dispute settlement system is necessary and is important. Currently, those who implement policies that are not in line with the WTO know that the dispute settlement system is weakened. Therefore, I would personally like to call on members to work as rapidly as possible towards re-strengthening the dispute settlement system which includes looking into the working of the appellate body.

I have found it very interesting that during the pandemic – under the Saudi Arabian G20 Presidency of 2020 – G20 members have been able to agree on statements at the trade ministerial level three times. Each time they agreed that any type of measures taken during the crisis had to be targeted and temporary, and should not create unnecessary barriers to trade. I found this ability to agree during a crisis very encouraging; G20 members agreed on what the message had to be to the world: do not restrict exports unless it is absolutely necessary.

To build trust among nations in this kind of crisis, we do know that transparency mechanisms can be very useful, and we have had a very interesting experience during Covid-19, which relates to agricultural markets. After the Great Financial Crisis in 2008-2009, G20 members asked international institutions to enhance transparency in agricultural markets. You may recall that this crisis at the time was called the “food, fuel and finance crisis” – the word “food” was included because prices rose so much. In response to the G20 request, several agencies including the OECD worked on something called the Agricultural Market Information System (AMIS).

At the beginning of the Covid-19 crisis, when markets became nervous, some countries were considering introducing export restrictions for major food crops. But as international agencies, we could show the data and say, “Look at the data – the harvests have been good, there is enough food around, everybody can be fed, so

please do not introduce export restrictions as there is absolutely no need.” And very rapidly, export restrictions were reverted and in 2020 the markets for major crops remained stable. I think this is an achievement that is not very well known, but it shows how transparency can work and what a constructive role collaboration among international agencies can play.

Trade & Security

JS: Turning to US-China trade friction, we are concerned that this will seriously impact global supply chains, and this is the principal reason for actively promoting a free and liberalized trade system based on the WTO. In particular, we are concerned about the increasing importance of economic security. We need some sort of new rules to achieve a balance between security concerns and trade policy concerns. What would be the relevant venue for discussing such rules?

Jansen: The existing GATT rules contain a provision that is called the security exception; keep in mind that the GATT rules were established in 1947 just after World War II. I would expect that the negotiators had security and security concerns at the back of their minds when negotiating the GATT. As with many of the WTO rules, the particular provision contains an element of the need to balance between the policy objective of security and the desire to keep markets open. The rules stipulate how this balancing act should be conducted. But members may disagree whether in a particular case security exceptions are being evoked for legitimate reasons and in a legitimate way or whether this is done for illegitimate or unnecessary reasons, for instance simply to protect domestic producers. If such a disagreement arises WTO members can initiate a dispute at the WTO.

Here again, what is needed is a well-functioning WTO dispute settlement system that is trusted and respected by members. To make this system work, it is key that members feel that they can respect its rulings. The challenge should not be underestimated. The WTO legal texts are full of references to “balancing acts” on aspects as different as balancing between the need to protect the health of your population and the need not to distort markets, between the need to protect the environment and the need not to distort markets, between the need to provide security to your population and the need not to distort markets. The texts were in my view very wisely drafted, and the task is to implement them in an equally wise manner.

Attracting the US Back to Multilateral Trading Systems

JS: According to what you have been saying, it will be important to restore the dispute settlement mechanism of the WTO first. In order to do that, we would need to attract the US to come back to multilateral trading systems. Do you have any idea how we can persuade the US to do that?

Jansen: The US is in my understanding actively engaged in the discussions at the WTO. We should not forget, however, that on most items we discussed – such as security concerns, access to vaccines, climate change concerns – the same countries have to collaborate with each other in different forums. Not every security concern will be discussed at the WTO. Not every climate concern should be addressed at the WTO explicitly. It is therefore important for WTO members to discuss different items also in other forums where they are best placed to be discussed, and then maybe in an iterative process to prepare the ground to sit again very constructively at the table at the WTO. I have the impression that these processes are going on, and that the WTO has through the preparations of MC12 been successful in signaling that it will be the trusted partner of the future to continue to discuss trade matters.

Rapid Technological Progress & Trade

JS: Related to economic security, one of the backgrounds to this issue is very rapid technological progress. In the high-tech sector, the security issue is very serious. This new technological progress will require new rules as quickly as possible, as otherwise the progress will be much more rapid than the rule-making process. What would be the relevant venue for addressing such concerns?

Jansen: I fully agree that it is urgent to act, and action is being taken in various forums. It was the G20 under Japan’s presidency in Osaka that started the discussion on digital trade under the heading “data free flow with trust”. It has not always been easy to agree what this actually means – “trust” being a word that can be interpreted in different ways in the context of data flows.

However, I think that since Japan started this in Osaka, we have seen a lot of rule-making activity on digital trade and OECD-work has shown that this activity is characterized by a lot of commonalities,

growing convergence, and also a high degree of complementarity. We have in the past years seen countries developing their own domestic policies and discussing digital trade often within bilateral or regional trade settings, and we have seen at the multilateral level different types of rules being elaborated.

In our OECD work on a Digital Trade Inventory (DTI), we have been creating an overview of these different rules and principles that have been evolving over the past years, and we have found that there are increasing commonalities, convergence, and complementarity. It is the case that governments are using different approaches to reach free flow of data with trust. Yet, whilst there are different approaches, this is not necessarily creating a problem.

First, we are finding that there are many commonalities between and within instruments. It notably appears to be accepted that there is a dual objective of safeguarding data while enabling flows.

Second, we are also seeing increased convergence in the way objectives are being implemented. For instance, we see increasingly that trade agreements combine data flow provisions with requirements for privacy. They do this maybe in different ways, but we see these combinations. We also see increasing overlaps in the way domestic privacy of personal data is being protected.

Third, we are also seeing an increasing level of complementarity between instruments, so we see increasingly that domestic law is drawing on plurilateral agreements such as international rules on e-signatures.

Our sense is that we are moving to a consensus, to something that becomes more and more similar. We are seeing activity at the G20 level and we have seen G7 ministers in October adopting the digital trade principles. At the OECD, we have had the honor to do a lot of the background work around these digital trade principles. In addition, work is ongoing at the WTO in the context of a joint statement initiative on e-commerce.

So taking into account progress at the G7, G20, and the WTO and based on our OECD work on the DTI, I definitely have the impression that we are moving in a positive direction.

OECD Stocktaking of Current Issues on Rules-Based International System

JS: I think we would need a sort of stocktaking exercise, because in a variety of venues discussions are going on. Not only on data flows, not only on trade or security, but also trade and competition, e-commerce and others issues. The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) is as you know

also touching on those issues as well. So is the OECD interested in stocktaking these various attempts to be prepared for the next round of the WTO?

Jansen: Absolutely – the digital trade inventory is an example of such a stocktaking exercise, and it goes further than that; it goes in the direction of describing what exists and assessing to what extent we see commonalities, convergence, and complementarities. As such, the work provides signals – for example to WTO members – where compromises may lie, where the difference is, where there is consensus, and how we can move forward. I believe that these stocktaking exercises are very important in order to make progress as rapidly as possible. The information on the digital trade inventory is available online and is available to every negotiator. We have been reaching out to negotiators including at the WTO to explain the results of our stocktaking exercise and how we would interpret them.

JS: How about other domestic policies, such as competition policy or environmental policy? These policies could also be covered by the new trade regime. Would the OECD or other venues need to do some stocktaking or analysis of these issues?

Jansen: I think that the OECD has had and will continue to have in the future an important role in these issues that I sometimes call “trade and” issues – trade and environment, trade and competition policy, trade and security are examples. One of the interesting aspects of the OECD is that we are an agency that covers nearly every element of domestic policy making. As a result, we do not only have experts on issues like competition policy, but also – through our governance structure – have direct exposure to the relevant national ministries and authorities. OECD colleagues dealing with competition policy are therefore working with national competition authorities in the same way as the TAD that I lead is in constant contact with trade and agricultural ministries or colleagues in the OECD Environment Directorate are in contact with national environmental ministries. You are probably aware of our Centre for Tax Policy where not only do we have tax experts, but we also have direct access to the relevant authorities at the national level. I sometimes like to say that the OECD is big enough to cover all these different areas of domestic policymaking, but small enough for us to be able to talk to each other across different areas of expertise.

So here I see that the OECD can play an important role also in the future to bring different communities together. Because when it comes to setting trade policies that are environmentally sustainable

or trade policies that are in line with competition rules protecting a level playing field, the question arises in which forum such cross-cutting rules are set. Do we agree on international environmental rules among environmental ministries, or among trade ministries? Do we agree on international competition rules among competition authorities or among trade ministers? Which is the forum on which policy makers are willing to settle? And once the forum is decided, we have to ensure that cross-cutting rules also relate to relevant rules set in other forums.

A very nice example already exists in the WTO agreement. When it comes to food safety rules, it is very clear – food safety rules are set at the Codex Alimentarius managed by the Food and Agriculture Organization (FAO) and the World Health Organization (WHO) of the United Nations. But the WTO legal texts refer to those international rules on food safety.

I come back to the example of competition policy. In May 2021, the OECD released recommendations on competitive neutrality, and these recommendations refer to the need to ensure competitive neutrality also at the global level in the context of international trade. There we have a concrete example of a tool designed by competition authorities that makes reference to international trade. In the TAD, we are working very closely with OECD colleagues working on competition policy to ensure coherence between trade policy and competition policy.

JS: In thinking about the coherence of trade policies and domestic policies, I think an important concept must be proportionality. Domestic policy issues may well be addressed in the domestic economy context, but there would be some issues arising that could have relevance to international trade. So I think policy practitioners must have balanced views on these two different aspects. What do you think about this?

Jansen: I think that would be in line with the way in which WTO rules are currently drafted. The WTO agreements specify trade rules and make reference to other domestic policies in a way that gives space for every government to pursue legitimate domestic policy objectives. When a country evokes legitimate domestic policy objectives like national security or the environment, it is then down to a WTO mediation process to agree on whether this exception has been evoked in an acceptable way, that is in a way that does not distort trade. Yet the space to pursue other domestic policy objectives exists in the WTO agreements.

Regarding these other “domestic” policies, it will depend on

national governments whether they think it is important to come to an international agreement on those policies. About 15-20 years ago, most governments would have said that tax policy is a purely domestic policy matter on which they do not want to cooperate. The Great Financial Crisis has changed this rather drastically. Today, an international tax policy instrument exists that has been facilitated by the OECD and agreed in 2021. So what governments consider a policy space that they want to keep purely domestic or a policy space on which they wish to collaborate may evolve over time. In 1947, governments were willing to agree on international trade rules; in 2021 they agreed on international rules for tax policies. Maybe today is the time when governments want to start collaborating more on environmental policies.

JS: On environmental policies, the issue of carbon leakage seems to be emerging. Generally speaking, what do you think about the adoption of trade policy measures to safeguard the goal of global environmental policies?

Jansen: Carbon leakage is a phenomenon that exists as described in our analytical work and is therefore something that members may be concerned about. Some OECD members have decided that they would like to consider using trade policy measures to address this. Speaking as an economist, this is a policy option that can work to some extent, but it is definitely not an optimal policy from an economic point of view. Climate change concerns should, from an economic point of view, be addressed with environmental policies not with trade policies.

International forums exist where governments discuss environmental policies – I am notably thinking of the recent COP26. We are seeing progress in these forums, but we are maybe not at the stage where the progress reached can be monitored and is enforceable. Therefore, it would be desirable that more rapid progress is made in agreeing internationally on solutions to environmental challenges. If members reach agreement on international environmental rules, it would no longer be necessary anymore to use trade policies to avoid problems of leakage.

At the OECD, we are very active in this space. We are very proud that under an arrangement we oversee – the Export Credit Arrangement – members agreed just before COP26 to stop providing support to unabated coal-fired power plants. This was a strong signal set in advance of COP26 that our members are willing to look more explicitly at some types of fossil fuels support.

More generally, we are very active in providing information and data and giving transparency on the provision of fossil fuel support.

We have a fossil fuel support database, and we provide information on carbon pricing. We therefore have a whole panoply of stocktaking instruments and transparency instruments that can help policymakers make progress on the concerns they have on climate change.

We also have started to look more proactively at the issue of explicit and implicit carbon pricing and are trying to encourage members to look for international agreements on these prices. If members were to agree on what the appropriate international price for carbon is and on how the content of carbon in products that are imported and exported is measured, then it would not be necessary anymore to introduce trade policies at the border in order to deal with carbon leakage. So we very much encourage environmental ministers and finance ministers to look jointly at solutions around carbon pricing.

JS: Assuming that we are now in a multilateral trading system crisis due to geopolitical challenges, perhaps it would be wiser to avoid serious trade friction. Provoking unnecessary trade frictions would not be favorable for a global multilateral trading system. Would you concur?

Jansen: Yes, I would agree with this. In the TAD we have always seen trade as a driver of prosperity, but in this context I would like to refer to another historical fact. In 1919, one organization that was created after World War I was the International Chamber of Commerce. At that time, the founders of this organization liked to refer to themselves as the “merchants of peace”. They made a strong argument that economic ties among peoples and cultures and exposure to each other through trade can be a contributor to peace. In the region where I grew up, the European Union, this argument has also been one of the drivers behind the European Economic Area. Let us establish economic ties for people to work hand in hand and to avoid the kind of frictions that have led to wars in the past. At the OECD we like to reflect that view and build on initiatives and messages that have been created well before I started working at the OECD in the TAD. I would like to argue that we have learned lessons from mistakes in the past.

JS: Turning to developing countries, not only on the issue of the global environment but many other issues, some are asking for differentiated responsibilities in the WTO. It would seem very difficult and a challenge for the WTO or other trade regimes to balance the interests of developed

nations and the concerns of developing nations particularly with regard to such differentiated responsibilities. What do you consider to be a relevant solution to this issue?

Jansen: It will be important to find a solution to this question. The WTO is a special organization in the sense that countries self-declare whether they are developing countries or not, and indeed with this self-declaration comes a certain freedom regarding the flexibility members have in the way rules are applied to them. We have until recently seen OECD members – who are considered to be among the wealthier nations of this world – still being considered developing countries at the WTO. In the public view there may be a bit of incoherence.

Of course, that doesn't create so many problems if those countries do not use the flexibilities they theoretically have at the WTO, or if countries using those flexibilities are relatively small and therefore do not impact global markets. But if countries using the flexibilities are large players, that of course can be of concern to the non-developing countries at the WTO.

This matter must be taken seriously; it is a matter that is being discussed at the WTO and that will undoubtedly form part of the matters that have to be solved as part of the WTO reform process. I can only encourage WTO members to take that discussion seriously and look at it in a constructive way.

I would maybe like to close this item by saying that sometimes policymakers in developing nations may be tempted to see the capacity of their own economies too negatively. I have personally seen in certain developing countries – including least developed countries (LDCs) – very vibrant private sectors and very vibrant parts of the economy that were absolutely able to lead in certain areas, such as in digital or environmental technologies. Maybe by transmitting this idea of “we are poor, we need protection”, policy makers sometimes forget that it is also important to transmit “we can, we are able, we are strong enough to deal with this international system”.

There is a lot of international potential in the private sector of many developing countries, and governments are sometimes maybe too pessimistic about the capabilities of their countries. I am confident and hopeful, though, that this is starting to change. **JS**

Written with the cooperation of Joel Challender who is a translator, interpreter, researcher and writer specializing in Japanese disaster preparedness.