

## DEBAT

### Nicolas BARRE

We are going to open the discussion to the floor.

### Douglas PAAL

In recent months in various trade forums, US Trade Representative Lighthizer has said that from his experience the WTO was never outfitted with the tools to manage a mercantilist approach to the economy that China now brings. China now does this on such a sweeping challenging scale, that the US should work to fundamentally readdress the principles on which the WTO is founded. I would be interested in your reaction to that characterisation.

### Yi XIAOZHUN

I do not think that the US is going to leave the multilateral system, because the system was created by the US seven decades ago and in the past, it worked in its interest. I understand that the US, or the current administration, wants to improve it and make it work more efficiently and in their interests. It is up to all the members to decide how to reform the system. As for China, personally I think it is important to engage China and work with it inside the system, instead of confrontation outside the global system. That is my personal view.

### Taeho BARK

Regarding the multilateral trading system, the Deputy Director-General already mentioned that the decision-making process at the WTO requires consensus, but it has worked until a certain point in time. Now, given the power shift in economies, there are many different emerging countries confronting the United States and the EU, which means that you never have any consensus on any difficult issues. That is the kind of thing we could start rethinking with. If you look at the IMF or the World Bank, there is a board system with weighted voting, so that they can reach solutions. At the WTO, one country one vote system requires consensus, which means that we have to admit that it will be very difficult to reach any kind of sensitive decision. This is why it has taken 16 years without producing any substantial progress for the Doha Round. We never have that sort of occasion before with the GATT system. That is the problem we have to solve.

### Stefan MAIR

I think what we have to get used to is that a world in which global governance is mainly shaped by the United States, with some assistance from the European Union, does not exist anymore. We now have new forces that rightfully claim to play an important part in shaping global governance. I think that if we want to maintain global governance structures, we somehow have to recognise that and engage in a discussion on how to change and reform them. As Americans and members of the European Union, we also need a consensus on how far we are willing to go and what limits we will set on the adjustments to global governance. How can the international liberal economic order cope with a new mercantilism, the role of state-owned enterprises and government subsidies. I still hope that there is some willingness in the Trump administration, to have this dialogue between Washington and Brussels, because if we try to deal with these challenges on our own, we will end up in real trouble. .

### Assia BENSALAH ALAOUI

My question is for Stefan Mair. You have suggested that better supranational governance and an ailing WTO that addresses its woes could be potential answers to rising protectionism. My question is: how can you do that, at a moment when Europe is totally reluctant to strengthen its supranational moves? Secondly, do you think that the Franco-German couple is strong enough to address this issue and what are the chances of getting there, knowing that the populists are against any reinforcement of Europe?



The other question is related to the WTO, which is much more recent than the historic international organisation, but are we condemned to paralysis? What do you as Deputy Director-General propose? Are we going to be permanent prisoners of this inability to reach a consensus? We know that reforms of the international economic organisation have been on the agenda for quite a long time. Everybody is aware of the discrepancies and cronyism between how they function and the requirements of the changing and evolving world. What suggestions are there for reform, other than saying that we are in a quagmire and we have to get the Trump administration, the UE and the major economies involved, knowing that the Third World and even the emerging countries have no say in this respect? What are the potential avenues to escape from this blockade?

### **Stefan MAIR**

I might be more positive on the fate of the European Union than the majority of the people in the hall. The election of a French President, who clearly had a pro-European and anti-populist agenda countering their main demands, is very encouraging. In Germany, we now have a right-wing party in parliament, but still a very broad consensus among the major parties for a pro-European policy. As far as I see, we have the chance at the beginning of next year, to revive the European Union and revive the discussion on how we would like to shape it. Brexit might help to a certain degree, because many member states of the European Union are about to learn now what it means to leave the European Union and not to have it. I think it is very important to strengthen supranational efforts within the European Union, but also to enforce a dialogue with other partners. Here still too much is left to the individual member states. We have also have to strengthen the European Union in this respect. It is not just about talking to our traditional partners, but also to look beyond and see who else might have an interest in strengthening global governance, and have proposals we could agree to, or at least discuss.

### **Marcus NOLAND**

Can I just add something? Both of the questions have a kind of commonality of what do we do in a period of lack of leadership. I think that given the problems the WTO has moving forward and the difficulties that the United States and China have in the economic relationship, there is a case for them to take it outside the WTO and settle these issues bilaterally. For example, the issue of China's market economy status is currently in the WTO. Personally, I think it is overestimated because of the nature of protection in the United States. Whether you grant China MES or not, it is not going to have a dramatic impact on market access, but it is an issue. I think you could see a situation where the United States and China just say that they are major powers and can settle it themselves. In the case of MES, for example, you would grant MES in sectors where China looks like it is really marketized, and not grant it in sectors where state-owned enterprises have a dominant position. In return, you could have the United States granting some constraints on application of anti-dumping and countervailing duties. The real risk is if China pushes a case like this through the WTO, and the United States does not comply and in the end, the Trump administration could simply pull the US out. I do not think that it is likely. I want to be very clear that I am not predicting this, but I would also observe that under current law, the President of the United States could pull the US out of the WTO without any Congressional oversight. I think that given the disfunction in the WTO, it is a very risky game for China to really press these cases with the United States. Frankly, given the condition of the WTO, I think it would be better to settle it between themselves.

### **Francis GURRY**

In relation to the Ambassador's last question, I think that this is an extraordinarily important issue. It is a major issue that the whole multilateral system architecture is frozen and this is across all organisations, not just the WTO, and they cannot find the way forward. I think that we really need to address this, because never have problems been more global in nature and therefore more in need of multilateral solutions. I have three small suggestions. First, maybe we have to accept a multi-speed system. That is heresy in traditional terms. We have moved the whole international community forward together over the last 60 or 70 years, so that everyone is comfortable. Maybe we have to accept that you can have a multi-speed system and that means that you would permit plurilateralism within multilateralism. If some groups of member states want to go forward and do something, then I think that should be permitted, provided that it does not unduly damage the interests of the others. Thirdly, I think that we are seeing a change in the nature of international cooperation. For 100 years or more, treaties were the instruments of cooperation. In today's networked world, platforms can be as important as treaties. It is much easier to get cooperation underway with a platform; those

who want to, join it. I think we should think in these terms as well. What really paralyzes the system is trying to reach multilateral treaty agreements.

#### **Tadakatsu SANO**

My question is that based on my previous experience as a negotiator in the Uruguay Round, I think its biggest success was the establishment of dispute settlement. With any kind of treaty, contract or agreement, final enforcement should be done by some kind of a dispute settlement mechanism. There are two issues. One is the WTO dispute settlement issue and the other that jeopardises things is, as Mr Mair said, the ISDS agreement or mechanism. These two should be subject to some kind of final result to solve a certain kind of question. Protectionism itself is not just against liberalisation, or something like that. The important thing is that we need to have some kind of legal infrastructure. It seems to be that right now, from reading the newspapers, the Appellate Body for the dispute settlement mechanism in the WTO is really in jeopardy from not having nominees. I think you have something like seven members, and three are absent, and by next year the Appellate Body could be down to three members. That completely paralyzes the dispute settlement mechanism for one thing and on TPP, we tried to have ISDS but some of the 11 countries tried to delete this issue. There is the same thing in NAFTA, one is the ISDS and another is the arbitration mechanism of the anti-dumping and countervailing duty issue, which are both important chapters in NAFTA. However, that has been completely changed. Therefore, ISDS cannot be the centrepiece for the treaty for many of the FTAs, some of the bilateral investment agreements, etc. What do you think about that from the business point of view Mr Mair, and Mr Yi, what is going on in the WTO on that kind of issue?

#### **Stefan MAIR**

We have made a decision in Europe right now to separate investment protection from trade policy. Future trade agreements will be mainly on trade and we will deal with investment protection separately. On the other hand, we have made major progress in reforming investment protection. Our CETA treaty with Canada, created an international investment court dealing with ISDS and we learned that this is more acceptable to the public. That is to have a strong state role in setting up this court, rather than leaving it to exclusively private structures. This was an innovation that we proposed to the United States in the context of TTIP, and which we will certainly propose in our free trade agreement with Japan and all our other negotiations.

#### **Taeho BARK**

About ISDS, it is not the same for all. In the case of the Korea-US FTA, it included ISDS, but attached a lot of conditions. Private companies cannot sue the government for certain areas, especially social policies, such as the environment and labour. With those kinds of conditions attached, ISDS could be a good foundation to protect investors, but if you just simply include ISDS it might not be supported by domestic constituencies.

#### **Yi XIAOZHUN**

Very briefly, first of all I would encourage all members to resolve the crisis, I think that everybody has a number of issues, but it is in everybody's interest. Secondly, I think that the multilateral dispute settlement mechanism works much more efficiently than RTAs. We checked that all the dispute settlement mechanisms or provisions in the RTAs were very rarely used, but if you check the WTO records, we have handled more than 500 disputes very efficiently in the last 21 years.

#### **Nicolas BARRE**

Thank you for attending and thank you for your great questions.