

## Enforcement Regulation review

The blockage, since December 2019, of the Appellate Body of the Dispute Settlement Body of the World Trade Organization (WTO) creates legal gaps for the enforcement of international trade rules. To bridge these gaps, the European Commission proposed to broaden the scope of Regulation (EU) No 654/2014 concerning the exercise of the EU's rights for the application and enforcement of international trade rules ('the Enforcement Regulation'). The European Parliament is scheduled to vote at first reading during the January plenary session on the text agreed in trilogue with the Council.

### Background

The United States has for several years [blocked](#) the nomination of new judges to the WTO Appellate Body, on both procedural and substantive [grounds](#). Therefore, on 11 December 2019 the Appellate Body [ceased](#) to function, as the terms of two of the three remaining judges necessary to decide upon appeals of first instance panel reports ended. Since the Appellate Body lost its quorum to hear new appeal cases, appeals by the losing party in WTO trade disputes against first instance panel reports decided in favour of the winning party are caught in a 'legal void', and remain unsolved and unenforceable in the [absence](#) of agreements among WTO members on alternative dispute resolution under [Article 25](#) of the WTO Dispute Settlement Understanding.

### European Commission proposal

On 12 December 2019, the Commission adopted a [proposal](#) aimed at adding two new triggers for the application of the Enforcement Regulation, which currently enables the EU to suspend or withdraw concessions or obligations under international trade agreements to protect its commercial interests, provided a final WTO ruling is available. The amendments seek to take into account the non-availability of final WTO rulings owing to the blockage of the Appellate Body, and potential similar blockages of dispute settlement arrangements under EU regional or bilateral trade agreements. The proposal would not modify the scope of possible countermeasures, which can apply only to trade in goods and public procurement.

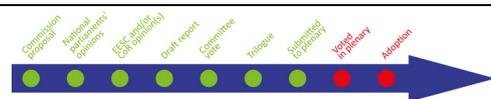
### Council position

On 8 April 2020, the Council [approved](#) its negotiating position, largely following the Commission proposal. It proposed to shorten the deadline for the review to three years, at the end of which the Commission would be tasked with assessing the scope of the regulation as amended and the potential need to expand the scope of countermeasures, to include trade in services and intellectual property rights.

### European Parliament position

On 6 July 2020, Parliament's Committee on International Trade (INTA) adopted its [report](#). It sought to extend the [scope](#) of EU countermeasures to trade in services and trade-related aspects of intellectual property rights, to shorten the deadline for the review, which should also include proposals to strengthen the enforcement of sustainable development commitments, to enable adoption of provisional measures as a last resort prior to a final WTO ruling, and to create the right for Parliament and/or the Council to request the Commission to adopt implementing acts. An [agreed text](#) emerged from trilogue on 28 October, and was [endorsed](#) by INTA on 10 November 2020. It incorporates the first two points and contains declarations on the others. The Council's Permanent Representatives Committee approved the text on [4 November 2020](#). Parliament is set to vote on the agreed text during the January plenary session.

First-reading report: [2019/0273\(COD\)](#); Committee responsible: INTA; Rapporteur: Marie-Pierre Vedrenne (Renew, France). For more information, see our 'EU Legislation in Progress' [briefing](#).



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