

Multilateralism in international trade

Reforming the WTO

SUMMARY

Since its establishment in 1995, the World Trade Organization (WTO) has embodied the multilateral trading system. Despite successes in some areas, including the effective settlement of numerous trade disputes and the conclusion of new multilateral trade agreements, the WTO currently faces serious challenges to its legitimacy and its effective functioning.

Of particular concern is the US blockage of new appointments to the WTO's Appellate Body (AB), which fulfils a key role in the WTO dispute settlement system. This impasse could soon paralyse the practical enforcement of multilateral trade rules, which would undermine the rules-based system. In addition, certain countries' contentious trade practices cannot be addressed under existing WTO rules, and rules on transparency are not fully complied with. The WTO has also had limited success in adding new issues to its trade agenda, and the 2001 Doha round was inconclusive. This has led many countries to pursue their own trade agreements outside the WTO's multilateral framework.

The EU is a key supporter of the multilateral trading system and seeks to address the challenges that the WTO faces. In September 2018, the Commission published a concept paper on WTO reform, in particular in the areas of rule-making, regular work and transparency, and dispute settlement. Other countries have also been working on WTO reform, sometimes together with the EU. A meeting of 13 WTO members, including the EU, to discuss reform proposals is due to take place in Canada on 24 and 25 October 2018.

The European Parliament strongly supports the multilateral trading system and has expressed its support for efforts to reform the WTO. Parliament's International Trade Committee is currently drafting an own-initiative report on the matter.

This is a further update of a briefing published in December 2017.



In this Briefing

- Introduction
- The World Trade Organization
- WTO achievements
- Current challenges in and to the WTO
- Initiatives to reform the WTO
- Position of the European Parliament

Introduction

Since 1995, the [World Trade Organization](#) (WTO) has been at the centre of the multilateral trading system. It succeeded the [General Agreement on Tariffs and Trade](#) (GATT), which had advanced multilateralism in international trade for many decades after the end of World War II. Despite having achieved various successes since its creation, the WTO is currently facing major challenges that undermine its status as the world's primary forum for negotiating trade rules, settling trade disputes and addressing trade issues. The EU is a strong supporter of the rules-based trade system and therefore has a strong interest in preserving the WTO. Partially in response to recent actions from the administration of United States (US) President Donald Trump, the EU and other WTO members are exploring ways to reform the WTO. On 24-25 October, Canada will host a meeting of 13 WTO members, including the EU (but not the USA or China), to discuss ways to modernise the WTO.

The World Trade Organization

The [WTO](#), formally created in 1995 and building on the achievements of successive [GATT](#) rounds, has three major [functions](#) in international trade cooperation, namely as a forum for:

1. **negotiations**, where countries can regularly convene, write trade rules and make commitments to liberalise trade and improve market access;
2. **dispute settlement**, for countries to resolve their trade disputes;
3. **technical and administrative matters**, where countries make and report changes to their trade policies thus facilitating transparency and information-sharing.

The WTO's trading system is based on several [principles](#): non-discrimination through most-favoured nation and national treatment, freer trade, predictable trade through bindings and transparency, fair competition, and encouraging development. It currently has [164](#) members, accounting for [98 %](#) of [global trade](#). The latest round of multilateral trade negotiations (and the first under the WTO) is the [Doha \(development\) round](#), which was launched in 2001 and formally remains open.

WTO achievements

The multilateral trading system, as currently embodied in the WTO, has first and foremost [tempered](#) unilateral approaches to trade by gradually integrating the majority of the world's countries into a rules-based system. The system has also led to a significant liberalisation of world trade, especially in goods, which has resulted in substantial economic benefits and has contributed to an increase in world GDP. In addition, the system is sometimes [credited](#) with having prevented the rise of overt protectionist measures during the 2008-2009 financial crisis.

The WTO itself has also produced some multilateral results. At the Ninth Ministerial Conference (MC) (the top governing body of the WTO) in 2013 in Bali, WTO members agreed on a [Trade Facilitation Agreement](#) (TFA). The TFA entered into force in February 2017 and is expected to expedite the movement, release and clearance of goods. It also contains measures on trade facilitation and customs compliance. At the 10th MC, in 2015, the '[Nairobi Package](#)' was adopted, which contains six decisions on agriculture, cotton and issues related to least-developed countries.

Widely considered the 'jewel in the crown', the [Dispute Settlement System](#) (DSS) of the WTO is currently one of the few effective international mechanisms for state-to-state dispute resolution. The compliance rate with DSS has been estimated at about [90 %](#). The DSS is also widely used: [567](#) disputes have so far been brought before it, and more than [400](#) rulings issued by it. This makes the WTO's DSS the bedrock of today's multilateral rules-based trading system.

Overall, the WTO makes global trade governance (more) predictable, transparent, enforceable and uniform. It is also intended to be a fair system, as WTO decisions are taken by consensus, so all member states' voices, including small developing countries, carry the same [weight](#).

Current challenges in and to the WTO

The WTO nevertheless faces significant challenges to its credibility. One of these is the so far limited results of its trade negotiations. Talks under the 2001 Doha round have been inconclusive, which is in part [attributed](#) to the WTO's 'single undertaking' approach that requires nearly all negotiation issues to be placed into a single package that can only be adopted by consensus. Moreover, the Doha agenda is now considered [outdated](#) as it predates the full-fledged internet-era. Last year's [11th MC](#) in Buenos Aires did not produce any significant breakthroughs either, although it did result in the launch of several new [initiatives](#), including on e-commerce and investment.

Partly in response to this, many WTO members (including the EU) have opted to pursue bilateral, regional and plurilateral trade deals outside the WTO. This has resulted in [306](#) regional trade agreements (RTAs) that are currently in force, and numerous others still under negotiation. Opinions [vary](#) on whether RTAs complement or compete with the WTO, but they could be [harmful](#) to the multilateral trade system as they lead to increased fragmentation and complexity of rules.

Another [concern](#) is the inability to fully address perceived unfair trade practices and policies of certain WTO members under existing WTO rules. These include countries' industrial subsidies, and state-owned enterprises that distort the level playing field. This concern is compounded by the fact that the WTO's monitoring mechanism is not functioning properly, as members fail to [notify](#) partners systematically of their subsidies despite WTO notification rules.

These challenges were recently compounded by a rise in [protectionism](#), most notably in the USA. US President Donald Trump has [threatened](#) to leave the WTO and the [2017 US Trade Policy Agenda](#) suggests that the USA might no longer comply with adverse WTO rulings. Most worryingly of all, the US has been [blocking](#) efforts to fill vacancies at the [Appellate Body](#) (AB), the WTO body that hears appeals. The AB normally consists of 7 members but is currently down to 3, the bare minimum. This US blockage threatens to paralyse the WTO's DSS. This is happening at a time when many new dispute settlement [proceedings](#) have been initiated following recent [unilateral US trade measures](#).

The US has [named](#) five (examples of) concerns that it has about the 'approach' of the AB: its disregard for the 90-day deadline for appeals, the continued service by persons who are no longer AB members, its issuing of advisory opinions on issues not necessary to resolve a dispute, its review of facts and review of a member's domestic law *de novo*, and its claim that its reports are entitled to be treated as precedents. In addition, the US has voiced a (more) substantive concern about the AB's adding or diminishing of rights and obligations in various trade disputes. The US insists that it cannot support AB member nomination processes as long as these concerns are not addressed.

Initiatives to reform the WTO

Commission concept paper

Based on an [invitation](#) from the June 2018 European Council, the Commission [published](#) a concept paper in September 2018 that proposes ways to modernise the WTO in three specific areas:

1. **Rulemaking.** The paper's *substantive* proposals focus on rebalancing the system and levelling the playing field (by improving transparency and subsidy notifications and better capturing state-owned enterprises and the most trade-distortive subsidies), addressing market access barriers and discrimination issues (including forced technology transfer and barriers to digital trade), and strengthening trade's contribution to sustainability goals. On the *procedural* side, the paper proposes maintaining multilateral negotiations where possible and pursuing plurilateral negotiations where necessary, strengthening the WTO Secretariat's role, and building greater political support for the WTO.
2. **Regular work and transparency.** The concept paper suggests instituting specific practices regarding notifications to increase transparency about WTO members' trade measures

(including more effective monitoring, incentives and sanctions), making the pre-litigation problem-solving of the WTO more effective, incremental adjustment of the WTO rulebook through regular WTO councils and committees, and downsizing ineffective committees.

3. **Dispute settlement.** The paper proposes addressing US issues with the AB's functioning in two stages. First, a comprehensive amendment should deal with the US concerns about the AB's *approach*, including by improving the efficiency of procedures, enhancing its interaction with WTO members, and strengthening its independence. This should unblock the AB appointment process. Next, substantive issues on WTO rules could be addressed.

Other initiatives

Canada has also [prepared](#) a discussion paper on WTO reform ahead of the October 2018 meeting. It contains proposals to improve the WTO's monitoring function, safeguard and strengthen the DSS, and modernise substantive trade rules. The EU, USA and Japan have since [December 2017](#) also held a number of [trilateral meetings](#) to discuss common challenges, including third parties' non-market oriented trade practices, subsidies, state-owned enterprises and forced technology transfers. At their [last](#) meeting in September 2018, they agreed on the need for WTO reform and decided to co-sponsor a proposal on transparency and notification in the WTO. Earlier, in July 2018, the EU and USA also [agreed](#) bilaterally on the need to work together to reform the WTO. Lastly, an EU-China [working group](#) on WTO reform met for the first time in October 2018. These initiatives could signal the start of a serious and sustained international effort in the coming years to modernise the WTO.

Position of the European Parliament

The [European Parliament](#) regards the multilateral trading system embodied in the WTO as the best option for international trade. It [supports](#) a modernisation of the WTO to make it more effective, transparent and accountable, and its Committee on International Trade is currently [drafting](#) an own-initiative report on the matter. Parliament has previously called on the Commission and other WTO members to explore ways to overcome the current impasse surrounding the AB, to further trilateral cooperation to address unfair trading practices, and to advance the multilateral trade agenda.

MAIN REFERENCES

European Commission, [EU concept paper on WTO reform](#), September 2018.

European Council, [Conclusions of 28 June](#), June 2018.

European Parliament, [Resolution of 12 September 2018 on the state of EU-US relations](#), September 2018.

Office of the United States Trade Representative, [2018 Trade Policy Agenda](#), February 2018.

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