

Enforcement of international trade rules

2019/0273(COD) - 12/12/2019 - Legislative proposal

PURPOSE: to amend the current Regulation on compliance with international trade rules to enable the Union to enforce its rights under international trade agreements.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: [Regulation \(EU\) No 654/2014](#) of the European Parliament and of the Council establishes a common legislative framework for exercising the Union's rights under international trade agreements in certain specific situations. One such situation concerns the dispute settlement mechanisms provided for in the Agreement establishing the World Trade Organisation (WTO) and other international trade agreements, including regional or bilateral agreements.

That Regulation however does not address a situation where the Union has a right of action in response to a measure maintained by a third country, but dispute settlement through adjudication is blocked or otherwise not available for reasons of noncooperation of the third country having adopted that measure.

For more than two years, the WTO Dispute Settlement Body (DSB) has been unable to fill vacancies on the WTO Appellate Body. Due to the blockage of appointments there will only be one Appellate Body Member from 11 December 2019. Consequently, the Appellate Body will be unable to hear new appeals as from that date.

WTO members will be able to avoid binding rulings and hence escape their international obligations by appealing panel reports. When a panel report is appealed but the Appellate Body cannot function, the dispute will be put into a legal void and will remain unresolved (this has been referred to as appealing "into the void"). This will mean that in those situations the WTO dispute settlement system will not be binding.

The current situation, namely the blocking of dispute settlement under the World Trade Organisation (WTO) agreement, requires the Union to act as quickly as possible to protect its interests.

CONTENT: the proposed amendment extends the scope of Regulation (EU) No 654/2014 on compliance with international trade rules to allow action to be taken when dispute settlement procedures are blocked. The proposal would enable the EU to react even if the WTO is not delivering a final ruling at the appellate level because the other WTO member blocks the dispute procedure by appealing into the void.

With the new mechanism, the EU should be able to expeditiously suspend obligations under international trade agreements, including regional or bilateral agreements, when effective recourse to a binding dispute settlement mechanism is not possible because the third country has rendered it impossible for the Union to do so.

In addition, the proposed amendment caters for similar situations that may arise under other international trade agreements, in particular regional or bilateral agreements, when a third country does not cooperate, as necessary, for dispute settlement to function. For example, the third country may fail to appoint an arbitrator and there is no fall-back mechanism foreseen for dispute settlement to nevertheless be able to proceed

The proposal clarifies that where measures are taken to restrict trade with a third country in such cases, these measures should be proportionate to the nullification or impairment of the Union's trade interests caused by the measures of the third country, in accordance with the Union's obligations under international law.

Lastly, the review clause of Regulation (EU) No 654/2014 should be renewed for a further period of five years. The Commission would then be in a position to examine the impact of the amendment.