

WTO reform: EU proposes way forward on the functioning of the Appellate Body

The proposal will be presented at the meeting of the WTO General Council on 12 December.

Commissioner **Malmström** said: “The appellate body function of the WTO dispute settlement system is moving towards a cliff’s edge. Without this core function of the WTO, the world would lose a system that has ensured stability in global trade for decades. Now, together with a broad coalition of WTO members, we are presenting our most concrete proposals yet for WTO reform. I hope that this will contribute to breaking the current deadlock, and that all WTO members will take responsibility equally, engaging in good faith in the reform process.”

The WTO dispute settlement system with its Appellate Body has been key to the security and predictability of the multilateral trading system. Without a proper system of enforcement, the multilateral rules can no longer work effectively. If no solution is found to address the current deadlock on the appointments to the Appellate Body, the whole system is at risk.

The proposed amendments to the WTO Agreement submitted now to the organisation membership follow up on the [EU’s ideas to modernise the WTO](#), published on 18 September, and are part of a broader effort that includes the recently submitted [proposal on notification and transparency rules](#) within the WTO that was co-sponsored among others by US and Japan.

They are the result of intense discussions over the past weeks with other WTO countries. The proposals address in a systematic and constructive manner all of the concerns expressed in recent months with respect to the Appellate Body. They show the EU’s willingness to engage in the process of reform of the WTO in all its functions.

The textual proposals submitted today seek to address all the concerns raised with regard to the WTO Appellate Body, by:

- Putting in place **new rules for outgoing Appellate Body members** which make clear in which cases they can stay on to complete the appeal proceedings they are working on;
- Ensuring that **appeal proceedings are finished on time** in line with the 90-day timeframe set out in the WTO rules, unless the parties in the dispute agree otherwise;
- Clarifying that the legal issues that are subject to appeal by the Appellate Body do not include **the meaning of domestic legislation**;
- Indicating that the Appellate Body should **only address issues necessary to resolve the dispute**;

– Introducing **annual meetings between WTO members and the Appellate Body** to discuss in an open way systemic issues or trends in jurisprudence.

At the same time, the EU is also making proposals to reinforce the Appellate Body's independence and impartiality and to improve its efficiency. These include having a single, longer term for Appellate Body members of 6 to 8 years, as well as increasing the number of members from 7 to 9 working full-time, to support the Appellate Body's capacity to deliver.

The proposals also include rules to ensure that the selection process of Appellate Body members starts automatically when a post is vacant and that there is an orderly transition with outgoing members.

These proposals will be presented by the EU and co-sponsoring WTO countries to the entire membership at the meeting of the WTO General Council on 12 December. The EU hopes that all WTO members can engage swiftly on this basis and that we avert the looming crisis.

For More Information

[Link to the proposals to the WTO](#)

[Initial EU ideas on WTO reform, as published on 18 September](#)