



EU-Thailand Newsletter

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WTO reform talks advance, 2024 to become a crucial year

Appointments to the World Trade Organisation's (WTO) Appellate Body, in charge of hearing appeals against reports issued by dispute panels, **have now been blocked since 2019** initially following by former US President Donald Trump's decision and continued by his successor, Joe Biden. This has *de facto* **paralysed the WTO's main function**: the resolution of trade disputes among its members. Assuming that a pre-Trump, functioning WTO is never to return, **different countries, including the US and EU, are coming up with proposals for partial reform of the institution.**

The US recently submitted a proposal to allow trade disputes to advance to the legally-binding Appellate Body stage only with the agreement of both parties. Moreover, Washington wants the unchallenged ability for **countries – read US – to decide when they can invoke a national security exception** – and not the Appellate Body, as previously. This would allow countries to impose trade tariffs with few – if any – legal constraints, as done by Washington in 2018 on imports of European steel and aluminium.

The EU also presented proposals in February, with the aim to have a **fully functioning dispute settlement system back in place by 2024**. Brussels' proposal focusses on improving deliberative engagement via the WTO committees, with the areas of **state intervention** in support of industrial sectors, **environmental challenges**, and **development and inclusiveness** at the centre of its approach. The overall objectives are to improve the understanding of new trade policy challenges, identify best practices, develop non-binding instruments to facilitate the implementation of existing trade agreements, and assess the scope for convergence on issues not yet completely addressed by the institution.

The WTO works on the basis of **consensus** of all its 164 members, making **striking a deal on any reform a close to impossible task**. Yet, the US is the main stumbling block. While Biden is seen as a more reasonable counterpart by most, **a Trump comeback** – or a Trump-like President – after the 2024 elections would certainly destroy any progress achieved and **effectively strike the *coup de grâce* to the institution.**

EU customs union to undertake most ambitious reform since its establishment

The European Commission announced (17 May) a new set of rules to streamline the EU's customs framework. The guiding principles of this reform are the **end of a free pass on customs duties for small goods consignments** and **making e-commerce platforms responsible for making e-commerce platforms responsible for compliance with rules** and ensuring customs duties are paid. For that purpose, the Commission foresees the



establishment of a common EU Customs Data Hub and a new **EU Customs Authority**. The reform is not aiming, however, to replace EU Member States' customs authorities, but rather to harmonise their work.

The EU Customs Data Hub will replace the current 111 national customs databases and allow importers to do the **customs declaration in a single portal** in order to **reduce administrative burdens**. It will be first **open for e-commerce in 2028**, followed by **other importers from 2032 on a voluntary basis** before it becomes mandatory for all importers in 2038. Traders will only be able to avoid this procedure if they are granted a **'trust-and-check' status**.

This database will be run by an EU Customs Authority, which would also be in charge of coordinating emergency customs cooperation between Member States. With this new system in place, authorities will be able to **better tackle fraud and safety risks** arising from EU-wide legislation on deforestation, forced labour, and due diligence, as well as sanctions circumvention. Lastly, for e-commerce, the **current exception for customs duties on goods valued less than €150 will be abolished**. Platforms selling **goods from non-EU countries** would be responsible for ensuring that **customs duties and VAT are paid on purchase**.

International cooperation key in upcoming forced labour products ban

While several points of divergence have emerged **among** the political groups at the European Parliament (EP) negotiating the forced labour ban legislation, there does seem to be a consensus on **cooperation with third countries and the transparency of the database** envisaged to enforce this legislation. To ensure the eradication of forced labour at its source, the EP is suggesting the involvement of **trade unions, workers' rights organisations, NGOs, and networks of affected stakeholders**. In addition, international cooperation through platforms like the **International Labour Organisation** and even **new mechanisms** to better prepare economic operators for the legislation's requirements.

The EP is discussing two proposals to strengthen the Commission's proposal. First, the left groups want **companies to bear the burden of proof for specific goods produced in identified high-risk areas**. The second concerns the **compensation** of individuals affected by forced labour as a condition of lifting product bans or closing ongoing investigations. Overall, the issue is proving to be a highly sensitive one, with sharp divergencies between political groups as well as EU Member States. This means **a delay of the legislation until after the June 2024 EP elections is becoming a real possibility**.

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