Thursday 28 November 2019

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Crisis of the WTO Appellate Body

European Parliament resolution of 28 November 2019 on the crisis of the WTO Appellate Body (2019/2918(RSP))

(2021/C 232/11)

The European Parliament,

— having regard to the Marrakesh Agreement of 15 April 1994 establishing the World Trade Organisation (WTO),

— having regard to Article 17 of the Understanding on rules and procedures governing the settlement of disputes (DSU), establishing the Standing Appellate Body of the Dispute Settlement Body of the WTO,

— having regard to the Communication from the European Union, China, Canada, India, Norway, New Zealand, Switzerland, Australia, Republic of Korea, Iceland, Singapore, Mexico, Costa Rica and Montenegro to the General Council of the WTO of 11 December 2018 (WT/GC/W/752/Rev. 2) and the Communication of the European Union, China, India and Montenegro to the General Council of the WTO of 11 December 2018 (WT/GC/W/753/Rev.1),

— having regard to the interim appeal arbitration arrangement between the EU and Canada, pursuant to Article 25 of the DSU, of 25 July 2019, as well as a similar arrangement with Norway agreed on 21 October 2019,

— having regard to the informal process on matters related to the functioning of the Appellate Body under the auspices of the General Council and to the reports provided by New Zealand Ambassador David Walker to the General Council of the WTO on 28 February 2019 (JOB/GC/215), 7 May 2019 (JOB/GC/217), 23 July 2019 (JOB/GC/220) and 15 October 2019 (JOB/GC/222), as well as to the draft General Council Decision on Functioning of the Appellate Body presented by Ambassador Walker to the General Council on 15 October 2019, as annexed to his report of that date,

— having regard to the statement by the Commission of 26 November 2019,

— having regard to Rule 132(2) of its Rules of Procedure,

— having regard to the motion for a resolution of the Committee on International Trade,

A. whereas the WTO was created to strengthen multilateralism, promote an inclusive world economic order and foster an open, rules-based and non-discriminatory multilateral trading system;

B. whereas the WTO dispute settlement system, thanks to its binding character, two levels of adjudication and independence, and the impartiality of its adjudicators, has successfully contributed to ensuring that WTO rules are respected and to the security and predictability of the multilateral trading system, thereby avoiding unilateral measures;

C. whereas the WTO Appellate Body plays a fundamental role in the WTO dispute settlement system;

D. whereas since 2017, the United States has been blocking the replacement of any of the seven members of the Appellate Body and has rejected numerous proposals to launch the selection process to fill the remaining vacancies;

E. whereas on 10 December 2019, the mandates of two of the three remaining Appellate Body members will expire and the Appellate Body will no longer be able to hear any new appeals, as three members are needed to do so;

1. Is deeply concerned that, without a solution, the Appellate Body will cease to be operational after 10 December 2019, which could have very serious consequences for the rules-based multilateral trading system;

2. Deplores the fact that the ongoing discussions between the WTO Members have not yet yielded positive results;

3. Fully supports the informal process facilitated by Ambassador Walker and considers his proposals to be a very good basis for finding a satisfactory solution that addresses the shared concerns over the functioning of the Appellate Body and the need to reform it; invites all WTO Members to engage constructively in these discussions so that the vacancies can be filled as soon as possible, while ensuring that the WTO is equipped with financial and human resources in accordance with its needs;

4. Calls on the Commission to continue its engagement with all of the WTO Members, including the United States, in order to unblock the appointments procedure as a matter of priority, even after 10 December 2019 if necessary;

5. Supports recent EU initiatives to conclude interim arrangements for provisional solutions with our major trade partners that would preserve the European Union's right to the resolution of trade disputes at the WTO through binding two-level, independent and impartial adjudication, while recalling that a Standing Appellate Body remains the core objective of the EU's strategy;

6. Recalls the importance of interparliamentary dialogue as a way of contributing to the ongoing discussions and to achieving a positive conclusion;

7. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the WTO Members, and the Director-General of the WTO.