**Follow up to the European Parliament non-legislative resolution on multilateral negotiations in view of the 12th WTO Ministerial Conference in Geneva,
30 November to 3 December 2021**

**1. Resolution tabled pursuant to Rules 132(2) of the European Parliament's Rules of procedure**

**2. Reference number:** 2021/2769 (RSP) / B9-0550/2021 / P9\_TA PROV(2021)0474

**3. Date of adoption of the resolution:** 25 November 2021

**4. Competent Parliamentary Committee:** Committee on International Trade (INTA)

**5. Brief analysis/assessment of the resolution and requests made in it:**

This resolution expresses the European Parliament’s views on the multilateral negotiations in the run-up to the 12th World Trade Organization (WTO) Ministerial Conference (MC12), which was scheduled to take place in Geneva (Switzerland) from 30 November to 3 December 2021.However, due to the worsening epidemiological situation and in order to safeguard the inclusivity and legitimacy of the process, it has been postponed to a later date to be determined.

The resolution seeks to provide the position of the European Parliament on the main potential deliverables of MC12, as well as WTO issues more generally. It calls for ambitious outcomes on the four key multilateral files – trade and health, including its trade related intellectual property rights (TRIPS) dimension, agriculture, fisheries subsidies and WTO institutional reform – which are complemented by plurilateral initiatives on environment, electronic commerce (e-commerce) and services domestic regulation and investment facilitation. Overall, the resolution shows that the European Parliament and the Commission are aligned on wanting ambitious outcomes on the four key multilateral files and on this basis urge for a strong push at MC12 in order to preserve a strong rules-based multilateral trading system. These outcomes would notably include the launch of a process of WTO reform, reaching an agreement on fisheries subsidies and a solid response from the WTO to the COVID-19 pandemic.

In the context of the response to pandemic, the resolution notes that countries face difficulties in the use of TRIPS flexibilities, notably Article 31bis, and calls for the EU to participate actively in negotiations and to support the granting of a temporary waiver from certain provisions of the TRIPS agreement for COVID-19, in order to enhance timely global access to affordable COVID-19 vaccines, therapeutics and diagnostics by addressing global production constraints and supply shortages. The Commission wishes to recall in this regard its proposals and active engagement with other key WTO Members on this topic, based on an approach providing certain clarifications and waiving certain obligations in the TRIPS Agreement provisions related to compulsory licensing, as further outlined below.

Moreover, on agriculture, more specifically on the issue of ‘modes of production’ referred to in paragraph 5 of the resolution, the Commission notes that it is not part of the topics under consideration in view of MC12.

In summary, the resolution shows that the Commission is well aligned with the European Parliament’s views in relation to MC12 and that both institutions fully share the objective of strengthening the rules-based multilateral trading system. While the resolution is laudable on important policy issues, it is worth noting however that some proposals are likely to be too ambitious and unlikely to be adopted in the short term as the WTO is a member-driven organisation that needs to accommodate the needs and wishes of its 164 Members.

**6. Response to requests and overview of action taken, or intended to be taken, by the Commission:**

**Paragraph 1 and 2**: The Commission agrees with the European Parliament on the enduring value of a rules-based international trading system under a well-functioning WTO that supports achieving the EU’s domestic and external policy objectives and promotes greater sustainability[[1]](#footnote-1) in line with the United Nation Sustainable Development Goals (*Trade Policy Review - An Open, Sustainable and Assertive Trade Policy COM(2021) 66*). The Commission also shares the European Parliament’s assessment that MC12 can be a crucial turning point in this regard and hence is leading efforts to achieve meaningful results in the key multilateral files – including the fisheries subsidies negotiations, the pandemic response, agriculture and initiating a process of WTO reform, including dispute settlement.

**Paragraph 3**: The Commission shares the view on the importance of reaching a meaningful WTO agreement disciplining fisheries subsidies; the agreement must be based on sustainability and subsidies with sustainable management of fisheries providing incentives to move towards non-harmful subsidies, something the EU has been doing with its internal policies.

**Paragraph 4**: The Commission shares the European Parliament’s view about the crucial role of trade policy during the COVID-19 pandemic. On the use of the flexibilities provided for in the Agreement on Trade-Related Aspects of Intellectual Property (‘the TRIPS Agreement’), in particular Article 31bis, the Commission recognises that it is necessary to ensure legal certainty and alleviate any difficulties that developing Members may face, in particular in the context of this pandemic. The Commission notes the European Parliament’s call for the EU to support the granting of a temporary waiver from certain provisions of the TRIPS agreement for COVID-19, in order to enhance timely global access to affordable COVID-19 vaccines, therapeutics and diagnostics by addressing global production constraints and supply shortages. The Commission agrees that this objective must inform the ongoing discussions in the WTO and has consequently expressed its concerns as to whether the waiver from entire sections of the TRIPS Agreement, as proposed in WTO doc. IP/C/W/669/Rev.1 would contribute to achieving it. In order to achieve that objective and constructively support the ongoing text-based process in the WTO, the EU submitted in June 2021 three Communications to the WTO, including a Communication with a draft ‘Declaration on the TRIPS Agreement and Public Health in the circumstances of a pandemic’ (WTO doc. IP/C/W/681). For further details about these Communications, we refer to the Commission’s “Follow up to the European Parliament non-legislative resolution on meeting the global COVID-19 challenge: effects of the waiver of the WTO TRIPS Agreement on COVID-19 vaccines, treatment, equipment and increasing production and manufacturing capacity in developing countries”[[2]](#footnote-2). Moreover, the Commission has shown its commitment towards consensus and has taken a major step forward by advocating a solution that would clarify or waive certain obligations in the TRIPS Agreement. This solution would allow WTO Members to authorise a company to manufacture and export COVID-19 pharmaceutical products without the authorisation of the patent owners in a fast and simplified manner. It would also ensure that countries with no or insufficient manufacturing capacity do not face any obstacles or legal uncertainty when they import these products. This solution would respond to the current needs and preserve the incentives to innovate and invest in research on COVID-19, its variants and other diseases.

**Paragraph 5**: The Commission remains committed to a successful MC12, with a positive outcome in agriculture, which would ensure a credible contribution to food security challenges. Meanwhile, the EU is ready to engage further with the WTO membership in order to find common ground on those issues where the positions are still divergent. While calling for realism and pragmatism, the EU strongly believes consensus could be reached on a number of issues. These would be outcomes on transparency improvements across all pillars in agriculture and work programmes on trade distorting domestic support and public stockholding for food security purposes. The EU also strongly supports a multilateral decision on the exemption of the World Food Programme humanitarian purchases from export restrictions. The Commission shares the objective to improve sustainability standards worldwide, including in promoting higher modes of production to ensure more sustainable agricultural practices. The Commission has already acknowledged in its Communication dated 18 February 2021 on the Trade Policy Review (see above) that, under certain circumstances as defined by WTO rules, it is appropriate for the EU to require that imported products comply with certain production requirements. The Commission will present, at the latest in June 2022, a report to the Council of the EU and the European Parliament on the rationale and legal feasibility of applying EU health and environmental standards (including animal welfare standards as well as processes and production methods) to imported agri-food. These issues are nevertheless not related to the WTO Agreement on Agriculture nor to the positions taken by the EU in the ongoing negotiations ahead of the MC12.

**Paragraph 6 and 7**: The Commission also shares the view that the WTO system is in crisis and in need of reform, and that MC12 will be a crucial moment for shoring the effectiveness and credibility of the Organization. In fact, reform of the WTO’s three main functions – negotiating, monitoring & deliberating, and dispute settlement –is a key priority of the European Union’s trade policy (*Trade Policy Review - An Open, Sustainable and Assertive Trade Policy COM(2021) 66*).

First, its role as a negotiating forum should be addressed, to ensure that the WTO is capable of delivering an updated rulebook that can respond to 21st century challenges. Second, reform should also extend to its monitoring and deliberating function, to make the work of its different bodies more effective and also to allow it to enhance cooperation with other international organisations. Finally, the improvements must deliver a fully functioning dispute settlement. Ensuring that the rules can be properly enforced is necessary for the credibility of the WTO.

The Commission also shares the view that the aim is to achieve concrete outcomes by the 13th WTO Ministerial Conference (MC13). The Commission agrees that close collaboration with the United States, as well as the rest of the membership, will be essential to achieve these objectives.

**Paragraph 8**: The European Commission agrees with the assessment of the negative consequences of the stalemate relating to the WTO Appellate Body for the multilateral rules-based trading system. The European Commission will continue its efforts, including in the context of MC12, aimed at having a fully functioning, binding, two-tier and independent WTO dispute settlement system as soon as possible. The European Commission’s strategy on these matters is set out in the Trade Policy Review (see above). In particular, the European Commission agrees that a meaningful reform of the dispute settlement system is needed to address valid concerns. Pending the resolution of this stalemate, the European Commission will continue supporting interim arrangements, such as the Multi-party interim appeal arbitration arrangement (MPIA), aiming at preserving a fully functioning dispute settlement system among the participating WTO Members (*Multi-party interim appeal arbitration arrangement pursuant to Article 25 of the DSU - World Trade Organization document JOB/DSB/1/Add.12, dated 30 April 2020*). The European Commission is also ready to take action on the basis of the amended Enforcement Regulation, if and when the relevant conditions are met, as would be necessary to safeguard the EU's interest (*Regulation (EU) 2021/167*).

**Paragraph 9**: Following the postponement of MC12, a trilateral ministerial meeting took place virtually on 30 November 2021. Ambassador Ms. Katherine Tai, United States Trade Representative, Mr. Hagiuda Koichi, Minister of Economy, Trade and Industry of Japan, and Mr. Valdis Dombrovskis, Executive Vice President of the European Commission, discussed the global challenges posed by non-market policies and practices of third countries. They agreed to focus their work in three areas: (1) Identification of problems due to non-market practices; (2) Identification of gaps in existing enforcement tools, and where further work is needed to develop new tools to address such practices, as well as discussing cooperation in utilising existing tools; and (3) Identification of areas where further work is needed to develop rules to address such practices.

**Paragraph 10**: The Commission believes that special and differential treatment must become much more granular, in function of an individual Member's demonstrated needs and capacities. Special and differential treatment in new agreements should be designed in terms of specific individual country needs at the sectoral or activity level rather than calling for a block exemption of a large category of Members. Negotiations towards a possible outcome at MC12 cover clarifications of existing provisions or considering additional special and differential treatment for the Least Developed Countries group and possibly other vulnerable WTO Members.

**Paragraph 11**: The Commission shares the European Parliament’s view that creating an easier path to integrate open plurilateral agreements into the WTO architecture is a core component of WTO reform. However, it is difficult to see how methods specific to the EU architecture, could be brought into the WTO system, beyond serving as an inspiration for closer cooperation between like-minded WTO Members.

**Paragraph 12**: The Commission appreciates that significant progress has been made in the plurilateral WTO Joint Statement Initiative on e-commerce. However, some key commercially important topics, including data flows, market access and source code, are yet to be resolved. The Commission continues to actively engage within the Joint Statement Initiative to achieve an ambitious, commercially meaningful outcome of these negotiations, as well as the participation by as many WTO Members as possible. The outcome of these negotiations should bring significant benefits for businesses and consumers alike. The Commission also continues to advocate for the extension of the WTO moratorium on custom duties on electronic transmissions at MC12.

**Paragraph 13**: The EU negotiates provisions on data flows and on the prohibition of unjustified data localisation requirements in all ongoing bilateral trade negotiations as well as in the e-commerce negotiations in the WTO, with a view to countering protectionist measures in third countries. The EU’s position in trade negotiations fully respects the EU’s personal data protection framework.

**Paragraph 14**: The Commission is aware of the trade-facilitating effect of electronic documents and aims to promote their use, for example in the WTO e-commerce negotiations. However, the extent to which electronic documents are accepted in the EU is a matter of internal market law, which also sets the limits of any possible trade commitment on this matter.

**Paragraph 15**: The EU put a proposal on the table in the WTO e-commerce negotiations that requests the participating WTO Members to join the Information Technology Agreement and its extension.

**Paragraph 16**: The EU is pursuing a robust sustainability agenda in the WTO. Jointly with other WTO members, the EU has launched on 15 December 2021 three statements that were originally foreseen to be issued during MC12 – [Trade and Environmental Sustainability[[3]](#footnote-3) Structured Discussions](https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/MIN21/6R2.pdf&Open=True), [Informal Dialogue on Plastics](https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/MIN21/8R2.pdf&Open=True)[[4]](#footnote-4), and [Fossil Fuel Subsidies Reform](https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/MIN21/9R1.pdf&Open=True)[[5]](#footnote-5). These statements address how the WTO can support the fight against climate change and contribute to sustainability and environmental protection. The EU has ensured that climate considerations are reflected in the statements mentioned above. The Trade and Environmental Sustainability Structured Discussions will open the dialogue on trade-related climate measures, including those to address carbon leakage. They will also explore how to facilitate trade in environmental goods and services to meet environmental and climate goals. The statement on fossil fuel subsidy reform will help anchor and guide the work in the WTO, starting with transparency. That work in the future should include the progressive development of disciplines on fossil fuel subsidies in the WTO. There is a clear commitment by the parties to this statement to work with other international organisations. The work outlined in these statements will begin at the start of 2022 and will aim at concrete, pragmatic, and practical outcomes on these actions at the latest by MC13.

**Paragraph 17**: The Commission has been working towards a strong MC12 declaration on gender equality and women empowerment that could be cosponsored by a maximum number of Members. The negotiated outcome, based on an inclusive approach, ensured wide support. The number of cosponsors is likely to increase. As an advocate of gender equality and women empowerment, the EU cosponsored also the 2017 Buenos Aires Declaration and has since been making efforts to encourage its implementation. In October 2021, the EU launched together with the International Trade Centre a dedicated project on Advancing the Buenos Aires Declaration on Trade and Women’s Economic Empowerment. It will help to understand how to apply a gender lens approach to WTO functions, agreements and negotiations and strengthen partnerships between trade policy makers and private sector.

**Paragraph 18**: On 2 December 2021, the plurilateral negotiations of the Joint Initiative on Services Domestic Regulation were concluded by Ministers representing 67 WTO members, including Executive Vice-President Dombrovskis for the EU. Members will now go through the required domestic procedures in view of the certification of their schedules of specific commitments, which will give legal effect to the negotiated outcome.

**Paragraph 19**: Due to the postponement of MC12, the pre-negotiated ministerial statement on Investment Facilitation for Development could not be issued. The Commission has supported the idea of issuing the statement in an alternative format – most likely a declaration from participating Members at Ambassador level. This would allow to acknowledge politically important elements of the statement, including a possible timeline for conclusion of the negotiations (end of 2022), a recognition of the latest version of the negotiating text as the working basis and the adhesion of eight new WTO Members to the initiative (bringing participation above the threshold of two thirds of the Membership).

**Paragraph 20**: The Commission welcomes the European Parliament’s support for the WTO’s Micro, small and medium enterprises (MSME) work programme. Most recently, the Commission contributed to the MSME Declaration, reinforcing the MSME December Package and expressing support for the WTO in its efforts to help MSMEs recover from the COVID-19 pandemic, most notably through information collection efforts, raising awareness and promoting MSMEs' access to information, promoting transparency for MSMEs, and a more predictable regulatory environment. The Commission expects and supports the endorsement of the MSME Declaration at MC12.

**Paragraph 21**: The Commission shares the European Parliament’s view that the WTO should contribute to protect fundamental labour rights and promote responsible business conduct and in this context supports the US’s forced labour proposal in the fisheries subsidies negotiations.

**Paragraph 22**: The Commission welcomes the European Parliament’s position on the importance of transparency in the WTO, the enhancement of which should be an important component of WTO reform. In this regard, the EU has already co-sponsored a proposal in the General Council of the WTO on enhancing transparency and improving compliance under WTO agreements.

**Paragraphs 23, 24 and 25**: The Commission has been fully committed in involving closely both the European Parliament as well as the Council in the preparations for MC12. The Commission shares the belief in the importance of the parliamentary dimension of the WTO and the work of the joint European Parliament and Inter-Parliamentary Union parliamentary conference on the WTO. The Commission also has been closely involved with civil society and business organisations, with regular Civil Society Dialogues on all WTO issues. The Commission also sees more effective stakeholder engagement and greater cooperation between the WTO and other relevant international organisations as one of the desirable outputs of the WTO reform process.

**Paragraph 26**: The Commission supports the WTO accession of all EU candidate accession countries.

**Paragraph 27**: The EU firmly supports the WTO Agreement on Government Procurement (GPA). The EU is actively engaged in promoting openness of public procurement markets outside the EU, through the accession of countries to the WTO Agreement on Government Procurement and negotiations of bilateral agreements. The European Commission is fully committed to the implementation of the GPA and actively engaged in the work of Committee on pending accessions to the GPA.

**Paragraph 28**: The Commission, in close cooperation with the Member States, is actively engaged in the work on non-preferential rules of origin, aiming at enhanced transparency. The adoption of a notification template for non-preferential rules of origin is imminent at the WTO Committee on Rules of Origin. This work could support potential future efforts to harmonise non-preferential rules of origin.

**Paragraph 29**: The EU itself did not ratify the current Annex K to the World Customs Organization’s Kyoto Convention. However, the Commission, in close cooperation with the Member States, is actively engaged in the ongoing review of the Annex K. The ongoing review covers a wide range of crosscutting issues in both preferential and non-preferential rules of origin, with the aim to ease the bureaucratic burden on economic operators.

1. Trade Policy Review - An Open, Sustainable and Assertive Trade Policy COM(2021) 66 [↑](#footnote-ref-1)
2. <https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2021/2692(RSP>) [↑](#footnote-ref-2)
3. <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/MIN21/6R2.pdf&Open=True> [↑](#footnote-ref-3)
4. <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/MIN21/8R2.pdf&Open=True> [↑](#footnote-ref-4)
5. <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/MIN21/9R1.pdf&Open=True> [↑](#footnote-ref-5)