

## Orgalim Position Paper on the World Trade Organisation (WTO)

### Executive summary

Orgalim is convinced of the benefits for Europe of rules-based free trade, including an effective framework at the multilateral level such as the World Trade Organisation (WTO). Strengthening and reinforcing the WTO and the functioning of the multilateral trading system must, therefore, remain a core priority for European Union trade policy.

We have the following specific recommendations for the reform of the WTO:

- Fixing the dispute resolution system
- Tackling subsidies, forced technology transfers, state-owned enterprises (SOEs) and self-declaration as a developing country
- Supporting relevant trade negotiations at WTO level
- Enhancing the role of the WTO Secretariat

## 1. Introduction

Orgalim is convinced of the benefits for Europe of rules-based free trade, including an effective framework at the multilateral level such as the World Trade Organisation (WTO). Strengthening and reinforcing the WTO and the functioning of the multilateral trading system must, therefore, remain a core priority for EU trade policy.

Orgalim welcomes the Annex to the European Commission Communication on the trade policy review on "reforming the WTO: towards a sustainable and effective multilateral trading system"<sup>1</sup>.

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<sup>1</sup> [Reforming the WTO](#): towards a sustainable and effective multilateral trading system

## 2. Fixing the Dispute Settlement Mechanism

To enable continuing rules-based free trade, the Dispute Settlement Mechanism of the WTO, including the Appellate Body, urgently needs to be fixed. In this respect, Orgalim supports the Commission proposals that adjudicators should not be bound by precedent but that they should take into account previous rulings if relevant, and that the role of the Appellate Body should be strictly limited to addressing legal issues; furthermore, independence of adjudicators is key and cases should be decided exclusively on merits; finally, mandatory timelines need to be strictly respected.

Moreover, since December 2019, the Dispute Settlement Mechanism of the WTO has been facing an unprecedented stalemate, with the WTO Appellate Body being unable to function. This situation is the consequence of the United States' decision to continue to block the appointment of new Appellate Body members since 2016. We regret the current stalemate in the nomination of judges to the WTO Appellate Body and we urge the Commission to cooperate with the United States to fix this.

In order to find a temporary solution to the current challenges at WTO level, Orgalim fully supports the Commission's creation of an interim appeal system<sup>2</sup>. We also call on the United States to join this interim system.

Moreover, Orgalim supports the recently adopted Enforcement Regulation<sup>3</sup>. In cases where EU companies face a situation whereby foreign manufacturing companies in a third country do not respect their WTO commitments and the WTO Panel has ruled in favour of the European Union, the Enforcement Regulation is a helpful tool to deal with the current blockage of the WTO Appellate Body.

## 3. Tackling subsidies, forced technology transfers, state-owned enterprises (SOEs) and self-declaration as a developing country

We support the EU proposal on transparency and subsidy notifications at WTO level<sup>4</sup>, including the creation of a general presumption according to which, if a subsidy is not notified to the WTO by the State giving the subsidy, it would be presumed to be an illegal subsidy. In cases where a subsidy is not notified at WTO level, there should be the possibility for the EU to retaliate against the third country. In this case, the State in question would need to prove that the measure is not an illegal subsidy according to the WTO rules. Orgalim also supports the joint efforts of the EU, Japan and the United States to strengthen the rules on industrial subsidies at WTO level to enable a level playing field and eliminate market distortions.

Moreover, the forced transfer of technology and distortions related to state-owned enterprises (SOEs) should be tackled at WTO level.

Strict criteria need to be developed and put in place for special and differential treatment of self-declared developing countries in the WTO, to ensure that such special and differential treatment is limited in time and scope. The situation in which an advanced economy, such as China, enjoys the status of 'developing country' within the WTO and the corresponding exemptions should be avoided. We therefore support the Commission's efforts to find a solution to this problem.

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<sup>2</sup> <https://trade.ec.europa.eu/doclib/press/index.cfm?id=2143>

<sup>3</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L..2021.049.01.0001.01.ENG&toc=OJ%3AL%3A2021%3A049%3ATOC>

<sup>4</sup> [http://trade.ec.europa.eu/doclib/docs/2019/january/tradoc\\_157633.pdf](http://trade.ec.europa.eu/doclib/docs/2019/january/tradoc_157633.pdf)

## 4. Supporting relevant trade negotiations at WTO level

In term of negotiations, Orgalim welcomes the WTO negotiations on e-commerce and supports the Commission's plan to prioritise this negotiation<sup>5</sup>. The e-commerce Agreement should include rules on duty-free access for electronic transactions, trade secrets, forced technology transfer, paperless trading procedures and electronic signatures and contracts. A particularly important issue for Europe's technology industries concerns the rules enabling cross-country data transfers and the prohibition of data location requirements.

The expansion of the Information Technology Agreement (ITA) is of key importance for Europe's technology industries. The next steps at WTO level should be to expand the global participation in this Agreement and to ensure that current participants are implementing their commitments. This would bring benefits to Europe's technology industries, by removing barriers to digital trade and customs duties on electronic transactions.

## 5. Enhancing the role of the WTO Secretariat

Orgalim supports enhancing the role of the WTO Secretariat, for instance by providing a facilitating right of initiative to introduce compromise proposals. The recent appointment of a new Director General is an opportunity for a fresh start, and for the proactive and visible engagement of the WTO Director General and the WTO Secretariat.

We also support the Commission's proposal to increase the participation of stakeholders, including businesses, in the WTO.

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Orgalim represents Europe's technology industries, comprised of 770,000 innovative companies spanning the mechanical engineering, electrical engineering, electronics, ICT and metal technology branches. Together they represent the EU's largest manufacturing sector, generating annual turnover of €2,298 billion, manufacturing one-third of all European exports and providing 11.55 million direct jobs. Orgalim is registered under the European Union Transparency Register – ID number: 20210641335-88.

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<sup>5</sup> [Reforming the WTO](#): towards a sustainable and effective multilateral trading system