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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	13 March 2024
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	C(2024) 1496 final
Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 13.3.2024 amending Regulation (EU) 2019/287 of the European Parliament and of the Council as regards the replacement of the Annex

Delegations will find attached document C(2024) 1496 final.

Encl.: C(2024) 1496 final



Brussels, 13.3.2024
C(2024) 1496 final

COMMISSION DELEGATED REGULATION (EU) .../...

of 13.3.2024

**amending Regulation (EU) 2019/287 of the European Parliament and of the Council as
regards the replacement of the Annex**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

The European Union regularly concludes trade agreements with third countries, in which it grants those countries preferential treatment. Among such agreements is the Free Trade Agreement between the European Union and New Zealand ('EU-New Zealand Agreement'), which contains bilateral safeguard clauses.

Regulation (EU) 2019/287 of the European Parliament and of the Council of 13 February 2019 ('Bilateral Safeguard Regulation') implements bilateral safeguard clauses and other mechanisms allowing for the temporary withdrawal of preferences in certain trade agreements concluded between the European Union and third countries. Where certain trade agreements contain certain specific provisions that are not in accordance with the Bilateral Safeguard Regulation, then those specific provisions should be listed in the Annex to that Regulation.

The EU-New Zealand Agreement contains such specific provisions on bilateral safeguards and, therefore, it is necessary to amend accordingly the Annex to the Bilateral Safeguard Regulation by listing those provisions in its Annex.

A further examination of the Free Trade Agreement between the European Union and the Republic of Singapore, the Free Trade Agreement between the European Union and the Socialist Republic of Viet Nam and the Agreement between the European Union and Japan for an Economic Partnership, has led to the conclusion that, in order to ensure legal certainty and enhance transparency, some additional provisions contained in those agreements should also be added in the Annex to the Bilateral Safeguard Regulation. Certain provisions contained in the Free Trade Agreement between the European Union and the Republic of Singapore and in the Free Trade Agreement between the European Union and the Socialist Republic of Viet Nam need to be deleted from the Annex. Furthermore, the dates of entry into force of the Free Trade Agreement between the European Union and the Republic of Singapore and the Agreement between the European Union and Japan for an Economic Partnership were not yet known on the date of entry into force of the Bilateral Safeguard Regulation. At the time of this delegated act, the dates are known. Therefore, the Annex to the Bilateral Safeguard Regulation should also be amended to reflect those dates.

Article 15 of the Bilateral Safeguard Regulation empowers the Commission to adopt delegated acts in order to amend the Annex to that Regulation.

In light of the many changes introduced to the Annex to the Bilateral Safeguard Regulation, in order to ensure transparency and readability, that Annex should be replaced.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

Pursuant to paragraph 4 of the Annex to the Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making, appropriate and transparent consultation was carried out. No additional consultations with interested parties or stakeholders, or a preparation of an impact assessment are necessary.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Article 15 of the Bilateral Safeguard Regulation empowers the Commission to adopt delegated acts in order to amend the Annex to the Bilateral Safeguard Regulation with a view to adding or deleting entries relating to specific bilateral safeguard clauses or other

mechanisms allowing for the temporary withdrawal of tariff preferences or of other preferential treatment contained in the trade agreements concluded between the European Union and one or more third countries where such specific provisions are not in accordance with the Bilateral Safeguard Regulation. Annex to the Bilateral Safeguard Regulation will be amended, so as to add entries contained in the EU-New Zealand Agreement, in the Free Trade Agreement between the European Union and the Republic of Singapore, in the Agreement between the European Union and Japan for an Economic Partnership and in the Free Trade Agreement between the European Union and the Socialist Republic of Viet Nam as well as to delete entries concerning the Free Trade Agreement between the European Union and the Republic of Singapore and the Free Trade Agreement between the European Union and the Socialist Republic of Viet Nam.

COMMISSION DELEGATED REGULATION (EU) .../...

of 13.3.2024

amending Regulation (EU) 2019/287 of the European Parliament and of the Council as regards the replacement of the Annex

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2019/287 of the European Parliament and of the Council of 13 February 2019 implementing bilateral safeguard clauses and other mechanisms allowing for the temporary withdrawal of preferences in certain trade agreements concluded between the European Union and third countries¹, and in particular Article 15 thereof,

Whereas:

- (1) Regulation (EU) 2019/287 lays down provisions for the implementation of bilateral safeguard clauses and other mechanisms allowing for the temporary withdrawal of preferences in certain trade agreements concluded between the European Union and one or more third countries. The provisions of Regulation (EU) 2019/287 do not affect any specific provisions contained in those trade agreements, where such provisions are not in accordance with that Regulation. Such specific provisions contained in certain trade agreements are listed in the Annex to Regulation (EU) 2019/287.
- (2) The European Union and New Zealand have concluded a Free Trade Agreement² containing certain provisions on bilateral safeguards that are not in accordance with Regulation (EU) 2019/287. Therefore, the Annex to that Regulation should include references to such provisions.
- (3) A further examination of the Free Trade Agreement between the European Union and the Republic of Singapore³, the Free Trade Agreement between the European Union and the Socialist Republic of Viet Nam⁴, and of the Agreement between the European Union and Japan for an Economic Partnership⁵ has led to the conclusion that, in order to ensure legal certainty and enhance transparency, additional provisions contained in those agreements should also be added in the Annex to Regulation (EU) 2019/287. In addition, a further examination of the Free Trade Agreement between the European Union and the Republic of Singapore and the Free Trade Agreement between the European Union and the Socialist Republic of Viet Nam has led to conclusion that certain provisions contained in those agreements concerning transition periods should be deleted from the Annex to Regulation (EU) 2019/287 since those provisions are in accordance with Regulation (EU) 2019/287.
- (4) The Annex to Regulation (EU) 2019/287 should also be modified by adding the dates of entry into force of the Free Trade Agreement between the European Union and the

¹ OJ L 53, 22.2.2019, p.1, ELI: <http://data.europa.eu/eli/reg/2019/287/oj>.

² OJ L, 2024/229, 28.02.2024, ELI: <http://data.europa.eu/eli/agree/2024/229/oj>

³ OJ L 294, 14.11.2019, p.3.

⁴ OJ L 186, 12.6.2020, p. 3.

⁵ OJ L 330, 27.12.2018, p. 3.

Republic of Singapore and the Agreement between the European Union and Japan for an Economic Partnership, since those dates were not yet known at the time of entry into force of Regulation (EU) 2019/287.

- (5) Considering those changes and in order to ensure transparency and readability, the Annex to Regulation (EU) 2019/287 should be replaced.
- (6) Pursuant to Article 27.2 of the Free Trade Agreement between the European Union and New Zealand that agreement should enter into force on the first day of the second month following the date on which the Parties exchange written notifications certifying that they have completed their respective applicable legal requirements and procedures for the entry into force of that agreement. Since the entry into force of the Free Trade Agreement between the European Union and New Zealand is not expected before 1 June 2024, it is appropriate to provide for a deferred application of this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EU) 2019/287 is replaced by the text set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 June 2024.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13.3.2024

For the Commission
The President
Ursula VON DER LEYEN