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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	12 March 2024
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	C(2024) 1494 final
Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 12.3.2024 amending Annex IV to Regulation (EU) No 978/2012 of the European Parliament and of the Council in order to remove Bhutan from the list of beneficiary countries of the special arrangement for the least-developed countries

Delegations will find attached document C(2024) 1494 final.

Encl.: C(2024) 1494 final



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

of 12.3.2024

amending Annex IV to Regulation (EU) No 978/2012 of the European Parliament and of the Council in order to remove Bhutan from the list of beneficiary countries of the special arrangement for the least-developed countries

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Since its introduction in 1971, the EU Generalised Scheme of Preferences ('GSP') has assisted developing countries in their efforts to reduce poverty, promote good governance and sustainable development by providing preferential access to the Union market and, consequently, helping them to generate additional revenues through international trade. Regulation (EU) No 978/2012 of the European Parliament and the Council¹ ('the GSP Regulation') provides the legal framework for the implementation of the GSP. The scheme focuses on the developing countries most in need: the least-developed countries and other low and lower-middle income countries, as a reflection of the current global economic and trade landscape.

Pursuant to Article 17(1) of the GSP Regulation a country which is identified by the United Nations ('UN') as a least developed country ('LDC') should benefit from the tariff preferences under the special arrangement for the LDCs (Everything But Arms, 'EBA'). Pursuant to Article 17(2), the list of EBA beneficiary countries is established in Annex IV to the GSP Regulation and is to be continuously reviewed on the basis of the most recent available data. Bhutan graduated from the UN's LDC category on 13 December 2023. Therefore, Bhutan no longer qualifies for the EBA beneficiary status under Article 17(1) and should be removed from Annex IV to the GSP Regulation. The decision to remove a beneficiary country from the list of EBA beneficiary countries should apply following a transitional period of three years as from the date on which the Commission's delegated act amending the Annex IV enters into force.

The criteria to be granted standard GSP beneficiary status are laid down in Article 4 of the GSP Regulation, which states that an eligible country should benefit from the standard GSP unless: (a) it has been classified by the World Bank as a high-income or an upper-middle income country during three consecutive years immediately preceding the update of the list of beneficiary countries; or (b) it benefits from a preferential market access arrangement which provides the same tariff preferences as the scheme, or better, for substantially all trade. Bhutan does not have a preferential market access agreement with the EU and is classified as a lower-middle income country by the World Bank in 2023. Therefore, Bhutan should remain listed in Annex II to the GSP Regulation as a standard GSP beneficiary. Standard GSP benefits shall apply for goods listed in Annex V of the GSP Regulation imported into the EU from Bhutan once Bhutan effectively ceases to benefit from EBA preferences.

In line with past practice, the date of entry into force is set to the 1st of January that follows the adoption of the Commission delegated act. Following the three-year transitional period, the exit date from the EBA arrangement proposed for Bhutan is thus 1 January 2028. This approach both facilitates implementation by Member States' customs authorities and ensures legal certainty for stakeholders. Moreover, as the calculation of the product graduation (Annex VI) and the vulnerability (Annex VII) thresholds are linked to the list of standard GSP beneficiaries (Annex II), amending this list several times in one year would mean repeated recalculations of the thresholds. This could lead to legal uncertainty for the remaining beneficiaries and would cause unnecessary administrative burden.

¹ OJ L 303, 31.10.2012, p. 1, ELI: <http://data.europa.eu/eli/reg/2012/978/oj>.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

In line with paragraph 4 of the Common Understanding on delegated acts between the European Parliament, the Council and the European Commission, appropriate and transparent consultations, including at expert level, have been carried out on this delegated act. The Commission Expert Group on the Generalised Scheme of Preferences discussed Bhutan's upcoming EBA graduation in the meeting held on 4 December 2023 and on 26 January 2024.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Article 17(2) of Regulation (EU) No 978/2012 empowers the Commission to adopt delegated acts in order to amend Annex IV to that Regulation.

Bhutan should be removed from Annex IV of Regulation (EU) No 978/2012 following a three-year transitional period, thus with application as from 1 January 2028.

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

of 12.3.2024

amending Annex IV to Regulation (EU) No 978/2012 of the European Parliament and of the Council in order to remove Bhutan from the list of beneficiary countries of the special arrangement for the least-developed countries

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union and in particular Article 207 thereof,

Having regard to Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008¹, and in particular Article 17(2) thereof,

Whereas:

- (1) Pursuant to Article 17(1) of Regulation (EU) No 978/2012, a country which is identified by the United Nations ('UN') as a least-developed country should benefit from the tariff preferences provided under the special arrangement for the least-developed countries 'Everything But Arms' (EBA).
- (2) The list of beneficiary countries of the special arrangement for the least-developed countries referred to in Article 1(2), point (c) of Regulation (EU) No 978/2012 is established in Annex IV to the Regulation. Article 17(2) of Regulation Regulation (EU) No 978/2012 lays down that Annex IV is to be continuously reviewed in order to reflect changes in relation to the conditions laid down in Article 17(1). Furthermore, Article 17(2) of Regulation Regulation (EU) No 978/2012 establishes a three-year transitional period for removing a country from the list of EBA beneficiary countries.
- (3) Bhutan graduated from the UN least-developed country category on 13 December 2023. Therefore, Bhutan no longer qualifies for EBA beneficiary status under Article 17(1) of Regulation (EU) No 978/2012 and should be removed from Annex IV to that Regulation. In accordance with Article 17(2) of Regulation (EU) No 978/2012, the removal of Bhutan from the list of EBA beneficiary countries should apply following a transitional period of 3 years as from the date on which the Commission' delegated act amending Annex IV to Regulation (EU) No 978/2012 enters into force. Bhutan should, therefore, be removed from Annex IV, with application from 1 January 2028.
- (4) Therefore, Annex IV to Regulation (EU) No 978/2012 should be amended,

¹ OJ L 303, 31.10.2012, p. 1, ELI: <http://data.europa.eu/eli/reg/2012/978/oj>.

HAS ADOPTED THIS REGULATION:

Article 1

Amendment to Regulation (EU) No 978/2012

In Annex IV to Regulation (EU) No 978/2012, the following alphabetical code and the corresponding country is removed from columns A and B, respectively:

BT Bhutan

Article 2

Entry into force and application

This Regulation shall enter into force on 1 January 2025.

This Regulation shall apply from 1 January 2028.

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

Done at Brussels, 12.3.2024

For the Commission
The President
Ursula VON DER LEYEN