



2024/1362

17.5.2024

COMMISSION DELEGATED REGULATION (EU) 2024/1362

of 13 March 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 countries ⁽¹⁾, 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 Agreement ⁽²⁾ 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 Singapore ⁽³⁾, the Free Trade Agreement between the European Union and the Socialist Republic of Viet Nam ⁽⁴⁾, and of the Agreement between the European Union and Japan for an Economic Partnership ⁽⁵⁾ 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 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,

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

⁽²⁾ OJ L, 2024/229, 28.2.2024, ELI: <http://data.europa.eu/eli/agree/2024/229/oj>.

⁽³⁾ OJ L 294, 14.11.2019, p. 3, ELI: http://data.europa.eu/eli/agree_international/2019/1875/oj.

⁽⁴⁾ OJ L 186, 12.6.2020, p. 3, ELI: http://data.europa.eu/eli/agree_international/2020/753/oj.

⁽⁵⁾ OJ L 330, 27.12.2018, p. 3, ELI: http://data.europa.eu/eli/agree_international/2018/1907/oj.

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 March 2024.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

**SPECIFIC PROVISIONS CONTAINED IN THE AGREEMENTS AND IMPLEMENTED BY THIS
REGULATION**

Free Trade Agreement between the European Union and the Republic of Singapore

Date of application	21.11.2019
Bilateral safeguard clauses or other mechanisms	Chapter Three Trade Remedies, Section C Bilateral Safeguard Clause
Provision(s) contained in the Agreement	<p>Article 3.11.3</p> <p>‘3. The determination referred to in Article 3.10 (Application of Bilateral Safeguard Measure) shall not be made unless the investigation demonstrates on the basis of objective evidence the existence of a causal link between increased imports from the other party and serious injury or the threat thereof. In this respect, due consideration shall be given to other factors, including imports of the same product from other countries.’</p> <p>Article 3.11.4</p> <p>‘4. Each Party shall ensure that its competent authorities complete any such investigation within one year of the date of its initiation.’</p> <p>Article 3.11.5(c)</p> <p>‘5. Neither Party shall apply a bilateral safeguard measure as set out in paragraph 1 of Article 3.10 (Application of Bilateral Safeguard Measure): [...] (c) beyond the expiration of the transition period, except with the consent of the other Party.’</p> <p>Article 3.11.6</p> <p>‘6. No measure shall be applied again to the import of the same good during the transition period, unless a period of time equal to half of the period during which the safeguard measure was applied previously has elapsed. In this case, paragraph 3 of Article 3.13 (Compensation) shall not apply.’</p> <p>Article 3.11.7</p> <p>‘7. When a Party terminates a bilateral safeguard measure, the rate of customs duty shall be the rate that, according to its Schedule included in Annex 2-A, would have been in effect but for the measure.’</p>

Free Trade Agreement between the European Union and the Socialist Republic of Viet Nam

Date of application	1.8.2020
Bilateral safeguard clauses or other mechanisms	Chapter 3 Trade Remedies, Section C Bilateral safeguard clause

Provision(s) contained in the Agreement	<p>Article 3.11.4</p> <p>‘4. The investigation shall also demonstrate, on the basis of objective evidence, the existence of a causal link between increased imports and the serious injury or threat thereof. The investigation shall also take into consideration the existence of any factor other than increased imports which may also cause injury at the same time.’</p> <p>Article 3.11.5</p> <p>‘5. Each Party shall ensure that its competent authorities complete the investigation referred to in paragraph 1 within one year of the date of its initiation.’</p> <p>Article 3.11.6(c)</p> <p>‘6. A Party shall not apply a bilateral safeguard measure: [...] (c) beyond the expiration of the transition period, except with the consent of the other Party.’</p> <p>Article 3.11.7</p> <p>‘7. In order to facilitate adjustment in a situation where the expected duration of a bilateral safeguard measure is more than two years, the Party applying the measure shall progressively liberalise the measure at regular intervals during the period of application.’</p> <p>Article 3.11.8</p> <p>‘8. When a Party terminates a bilateral safeguard measure, the rate of customs duty shall be the rate that, according to its schedule included in Annex 2-A (Reduction or Elimination of Customs Duties), would have been in effect but for the measure.’</p> <p>Article 3.14</p> <p>‘14. In order to ensure the maximum efficiency for the application of the trade remedy rules under this Chapter, the investigating authorities of the Parties shall use the English language as a basis for communications and documents exchanged in the context of trade remedy investigations between the Parties.’</p>
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Agreement between the European Union and Japan for an Economic Partnership

Date of application	1.2.2019
Bilateral safeguard clauses or other mechanisms	Chapter 5 Trade Remedies, Section A General provisions and Section B Bilateral safeguard measures, and Article 18 Safeguard of Annex 2-C Motor Vehicles and Parts
Provision(s) contained in the Agreement	<p>Article 5.1(d)</p> <p>‘(d) “transition period” means, in relation to a particular originating good, the period beginning on the date of entry into force of this Agreement and ending 10 years after the date of completion of tariff reduction or elimination on that good in accordance with Annex 2-A.’</p>

	<p>Article 5.2.2(b)(ii)</p> <p>‘(ii) most-favoured-nation applied rate of customs duty in effect on the day immediately preceding the date of entry into force of this Agreement.’</p> <p>Article 5.3.2</p> <p>‘2. Bilateral safeguard measures may only be applied during the transition period.’</p> <p>Article 5.3.3</p> <p>‘3. In order to facilitate adjustment in a situation where the expected duration of a bilateral safeguard measure exceeds one year, the Party maintaining the bilateral safeguard measure shall progressively liberalise the bilateral safeguard measure at regular intervals during the period of application.’</p> <p>Article 5.3.4</p> <p>‘4. No bilateral safeguard measure shall be applied to the import of a particular originating good which has already been subject to such a bilateral safeguard measure for a period of time equal to the duration of the previous bilateral safeguard measure or one year, whichever is longer.’</p> <p>Article 5.3.5</p> <p>‘5. Upon the termination of a bilateral safeguard measure, the rate of customs duty for the originating good subject to the measure shall be the rate which would have been in effect but for the bilateral safeguard measure.’</p> <p>Article 5.4.2</p> <p>‘2. The investigation shall in all cases be completed within one year following its date of initiation.’</p> <p>Article 5.4.4</p> <p>‘4. The determination that increased imports of an originating good have caused or are threatening to cause serious injury to a domestic industry shall not be made unless the investigation demonstrates, on the basis of objective evidence, the existence of a causal link between the increased imports of the originating good and the serious injury or threat of serious injury to the domestic industry. In this determination, factors other than the increased imports of the originating good which are also causing injury to the domestic industry at the same time shall be taken into consideration.’</p> <p>Article 5.8</p> <p>‘8. The notifications referred to in paragraph 1 of Article 5.5 and paragraph 2 of Article 5.7 and any other communication between the Parties under this Section shall be made in English.’</p> <p>Article 18 Safeguard of Annex 2-C Motor Vehicles and Parts</p> <p>‘1. During the 10 years following the entry into force of this Agreement, each of the Parties reserves the right to suspend equivalent concessions or other equivalent obligations in the event that the other Party (*): (a) does not apply or ceases applying a UN Regulation as specified in Appendix 2-C-1; or (b) introduces or amends any other regulatory measure that nullifies or impairs the benefits of the application of a UN Regulation as specified in Appendix 2-C-1.</p>
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	<p>2. Suspensions pursuant to paragraph 1 shall remain in force only until a decision is made in accordance with the accelerated dispute settlement procedure referred to in Article 19 of this Annex or a mutually acceptable solution is found, including through consultations under subparagraph (b) of Article 19 of this Annex, whichever is earlier.</p> <p>(*) The level of the suspension of concessions or other obligations shall be no more than the level of the amount of the bilateral trade between the Parties of products covered by the UN Regulation referred to in subparagraph 1(a) or (b) of this Article.'</p>
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Free Trade Agreement between the European Union and New Zealand

Date of application	1.6.2024
Bilateral safeguard clauses or other mechanisms	Chapter 5 Trade Remedies, Section D Bilateral Safeguard Measures
Provision(s) contained in the Agreement	<p>Article 5.7(c), (e) and (g)</p> <p>'(c) "serious deterioration" means major difficulties in a sector of the economy producing like or directly competitive goods;</p> <p>[...]</p> <p>(e) "threat of serious deterioration" means a serious deterioration that is clearly imminent on the basis of facts and not merely on allegation, conjecture or remote possibility;</p> <p>[...]</p> <p>(g) "transition period" means a period of seven years starting from the date of entry into force of this Agreement.'</p> <p>Article 5.8.2(b)(ii)</p> <p>'(ii) the most-favoured-nation applied rate of customs duty in effect on the day immediately preceding the date of entry into force of this Agreement.'</p> <p>Article 5.9.1(a) and (c)</p> <p>'1. A bilateral safeguard measure shall not be applied:</p> <p>(a) except to the extent, and for such time, as may be necessary to prevent or remedy the serious injury or the threat of serious injury to the domestic industry or the serious deterioration or the threat of serious deterioration in the economic situation of the outermost region or regions;</p> <p>[...]</p> <p>(c) beyond the expiration of the transition period.'</p>

	<p>Article 5.9.2(a)</p> <p>‘2. The period referred to in point (b) of paragraph 1 may be extended by one year provided that:</p> <p>(a) the competent investigating authorities of the importing Party determine, in conformity with the procedures specified in Sub-Section 1 (Procedural rules applicable to bilateral safeguard measures), that the bilateral safeguard measure continues to be necessary to prevent or remedy the serious injury or the threat of serious injury to the domestic industry or the serious deterioration or the threat of serious deterioration in the economic situation of the outermost region or regions;’</p> <p>Article 5.9.3</p> <p>‘3. When a Party ceases to apply a bilateral safeguard measure, the rate of customs duty shall be the rate that would have been in effect for the good concerned, in accordance with Annex 2-A (Tariff elimination schedules).’</p> <p>Article 5.9.4</p> <p>‘4. A bilateral safeguard measure shall not be applied to the import of a good of a Party which has already been subject to such a bilateral safeguard measure for a period of time equal to half of the duration of the previous bilateral safeguard measure.’</p> <p>Article 5.9.5</p> <p>‘5. A Party shall not apply to the same good and at the same time:</p> <p>(a) a provisional bilateral safeguard measure, a bilateral safeguard measure or an outermost regions safeguard measure pursuant to this Agreement; and</p> <p>(b) a safeguard measure pursuant to Article XIX of GATT 1994 and the Agreement on Safeguards.’</p> <p>Article 5.10.1</p> <p>‘1. In critical circumstances, where delay would cause damage that would be difficult to repair, a Party may apply a provisional bilateral safeguard measure, pursuant to a preliminary determination that there is clear evidence that imports of a good originating in the other Party have increased as a result of the reduction or elimination of a customs duty under this Agreement, and that such imports cause serious injury or the threat of serious injury to the domestic industry or serious deterioration or the threat of serious deterioration in the economic situation of the outermost region or regions.’</p> <p>Article 5.10.3</p> <p>‘3. The customs duty imposed as a result of the provisional bilateral safeguard measure shall promptly be refunded if the subsequent investigation referred to in Sub-Section 1 (Procedural rules applicable to bilateral safeguard measures) does not determine that the increased imports of the good subject to the provisional bilateral safeguard measure cause serious injury or the threat of serious injury to the domestic industry or serious deterioration or the threat of serious deterioration in the economic situation of the outermost region or regions.’</p> <p>Article 5.11</p> <p>‘Outermost regions</p> <p>1. Where any product originating in New Zealand is being directly imported into the territory of one or several outermost regions of the Union (*) in such increased quantities and under such conditions as to cause serious deterioration or the threat of serious deterioration in the economic situation of the outermost region or regions concerned, the Union, after having examined alternative solutions, may exceptionally apply bilateral safeguard measures limited to the territory of the outermost region or regions concerned.</p>
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	<p>2. For the purposes of paragraph 1, the determination of serious deterioration shall be based on objective factors, including the following elements:</p> <p>(a) the increase in the volume of imports in absolute or relative terms to the domestic production and to the imports from other sources; and</p> <p>(b) the effect of such imports on the situation of the relevant industry or the economic sector concerned, including on the levels of sales, production, financial situation and employment.</p> <p>3. Without prejudice to paragraph 1, this Section applies to any safeguard measure adopted under this Article, mutatis mutandis.</p> <p>(*) On the date of entry into force of this Agreement, the outermost regions of the Union are Guadeloupe, French Guiana, Martinique, Reunion, Mayotte, St. Martin, the Azores, Madeira and the Canary Islands. This Article shall also apply to a country or an overseas territory that changes its status to an outermost region by a decision of the European Council in accordance with the procedure set out in Article 355(6) of the TFEU from the date of adoption of that decision. In the event that an outermost region of the Union changes its status in accordance with the same procedure, Article 5.11 (Outermost regions) shall cease to be applicable from the date of entry into force of the relevant decision of the European Council. The Union shall notify New Zealand of any change concerning the status of the territories considered as outermost regions of the Union.'</p> <p>Article 5.14.2</p> <p>'2. In order to apply a bilateral safeguard measure, the competent investigating authority shall demonstrate on the basis of objective evidence the existence of a causal link between the increased imports of the product concerned and the serious injury or the threat of serious injury or the existence of a causal link between the increased imports of the product concerned and the serious deterioration or the threat of serious deterioration. The competent investigating authority shall also examine known factors other than the increased imports to ensure that the injury caused by such other factors is not attributed to the increased imports.'</p> <p>Article 5.14.3</p> <p>'3. The investigation shall in all cases be completed within one year after the date of its initiation.'</p>
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