Commission Implementing Regulation (EU) 2019/1787 of 24 October 2019 amending Implementing Regulation (EU) 2016/6 imposing special conditions governing the import of feed and food originating in or consigned from Japan following the accident at the Fukushima nuclear power station (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) 2019/1787

of 24 October 2019

amending Implementing Regulation (EU) 2016/6 imposing special conditions governing the import of feed and food originating in or consigned from Japan following the accident at the Fukushima nuclear power station

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety[(1)], and in particular Article 53(1)(b)(ii) thereof,

Whereas:

(1) Article 53 of Regulation (EC) No 178/2002 provides for the possibility to adopt appropriate Union emergency measures for food and feed imported from a third country in order to protect public health, animal health or the environment, where the risk cannot be contained satisfactorily by means of measures taken by the Member States individually.

(2) Following the accident at the Fukushima nuclear power station on 11 March 2011, the Commission was informed that radionuclide levels in certain food products originating in Japan exceeded the action levels in food applicable in Japan. Such contamination may constitute a threat to public and animal health in the Union and therefore Commission Implementing Regulation (EU) No 297/2011[(2)] was adopted. That Regulation was replaced by Commission Implementing Regulation (EU) No 961/2011[(3)] which was later replaced by Commission Implementing Regulation (EU) No 284/2012[(4)]. The latter was replaced by Commission Implementing Regulation (EU) No 996/2012[(5)] which was later replaced by Commission Implementing Regulation (EU) No 322/2014[(6)] and which was in turn replaced by Commission Implementing Regulation (EU) 2016/6[(7)].

(3) Since Implementing Regulation (EU) 2016/6, as amended by Commission Implementing Regulation (EU) 2017/2058[(8)] provides that the measures provided therein are to be reviewed by 30 June 2019 and in order to take into account further development of the situation and occurrence data for 2017 and 2018 on radioactivity in feed and food, it is appropriate to amend Implementing Regulation (EU) 2016/6.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2019/1787. (See end of Document for details)*

(4) The existing measures have been reviewed taking into account more than 100 000 occurrence data on radioactivity in feed and food other than beef and more than 534 000 occurrence data on radioactivity in beef, provided by the Japanese authorities concerning the seventh and eight growing season (January 2017 until December 2018) after the accident.

(5) The data submitted by the Japanese authorities for 2017 and 2018 provide evidence that no exceedance of the maximum levels of radioactivity were observed in feed and food originating from Chiba, Tochigi and Iwate during the eighth growing season after the accident and it is no longer necessary to require the sampling and analysis of feed and food originating in the prefectures of Chiba, Tochigi and Iwate regarding the presence of radioactivity before export to the Union.

(6) For feed and food products originating in the prefecture of Fukushima, taking into account the occurrence data provided by the Japanese authorities for 2017 and 2018, it is appropriate to lift the requirement of sampling and analysis before export to the Union for soybeans, giant butterbur, bracken, Japanese royal fern and ostrich fern and products derived thereof. For the other feed and food originating in that prefecture, it is appropriate to maintain the requirement of sampling and analysis before export to the Union.

(7) As regards the prefectures of Miyagi, Ibaraki and Gunma, it is currently required to sample and analyse mushrooms, fishery products and certain edible wild plants and derived products thereof, before export to the Union. The occurrence data for the eighth growing season provide evidence that it is appropriate to no longer require sampling and analysis before export to the Union for fish and fishery products and certain edible wild plants and derived products thereof from the prefectures of Miyagi, Ibaraki and Gunma and also for mushrooms from the prefecture of Ibaraki. With regard to edible wild plants and derived products thereof, the sampling and analysis should no longer be required for bamboo shoots for the prefectures Ibaraki and Gunma, but it should be maintained for the prefecture Miyagi; and the sampling and analysis should no longer be required for Ostrich fern and Japanese royal fern for the prefecture Miyagi. On the other hand, non-compliances have been found in *Aralia* spp. from the prefecture Gunma during the eighth growing season and therefore it is appropriate to require sampling and analysis for *Aralia* spp. and derived products thereof from the prefecture Gunma before its export to the Union.

(8) As regards the prefectures of Nagano and Niigata, it is currently required to sample and analyse mushrooms and certain edible wild plants and the processed and derived products thereof before export to the Union. The occurrence data for the eight growing season provide evidence that it is appropriate to no longer require sampling and analysis before export to the Union for mushrooms for both prefectures and also for the edible wild plants Ostrich fern, Japanese royal fern and *Aralia* spp, and derived products thereof from the prefecture of Nagano.

(9) The occurrence data from the seventh and eighth growing season provide evidence that it is appropriate to maintain the requirement for sampling and analysis before export

to the Union for mushrooms and koshiabura and derived products thereof originating from the prefectures of Shizuoka, Yamanashi and Yamagata.

(10) Taking into account the occurrence data from the seventh and eighth growing season, it is appropriate to structure the provisions of Implementing Regulation (EU) 2016/6 in a manner that prefectures of which the same feed and food has to be sampled and analysed before export to the Union are grouped together.

(11) The controls performed at import show that the special conditions provided for by Union law are correctly implemented by the Japanese authorities and non-compliance has not been found at import controls for more than seven years. Therefore, it is appropriate to keep the low frequency of controls at import.

(12) It is appropriate to provide for a review of the provisions of Implementing Regulation (EU) 2016/6 when the results of sampling and analysis on the presence of radioactivity of feed and food of the ninth and tenth growing season (2019 and 2020) after the accident are available, i.e. by 30 June 2021.

(13) Implementing Regulation (EU) 2016/6 should therefore be amended accordingly.

(14) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) 2016/6 is amended as follows:

(1) Article 5(4) is replaced by the following:

4. Fish and fishery products referred to in Annex II, caught or harvested in the coastal waters of the prefecture of Fukushima shall be accompanied by a declaration referred to in paragraph 1 and by an analytical report containing the results of sampling and analysis, irrespective of where such products are landed.;

(2) Article 14 is replaced by the following:

Article 14

Review

This Regulation shall be reviewed before 30 June 2021.;

(3) Annex II is replaced by the text set out in Annex I to this Regulation;

(4) Annex III is replaced by the text set out in Annex II to this Regulation.

Article 2

Transitional provision

Consignments of feed and food falling under the scope of Implementing Regulation (EU) 2016/6 which left Japan prior to the entry into force of this Regulation may be

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imported into the Union under the conditions laid down by Implementing Regulation (EU) 2016/6 prior to the entry into force of this Regulation.

Article 3

Entry into force

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

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

Done at Brussels, 24 October 2019.

For the Commission

The President

Jean-Claude JUNCKER