Commission Implementing Regulation (EU) 2017/2058 of 10 November 2017 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) 2017/2058

of 10 November 2017

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 provides that the measures provided therein are to be reviewed by 30 June 2016 and in order to take into account the further development of the situation and occurrence data for 2015 and 2016 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) 2017/2058. (See end of Document for details)*

(4) Council Regulation (Euratom) 2016/52[8] repeals Council Regulation (Euratom) No 3954/87[9] and Commission Regulation (Euratom) No 770/90[10] and therefore it is appropriate to amend the references to these Regulations accordingly.

(5) The existing measures have been reviewed taking into account more than 132 000 occurrence data on radioactivity in feed and food other than beef and more than 527 000 occurrence data on radioactivity in beef, provided by the Japanese authorities concerning the fifth and sixth growing season (January 2015 until December 2016) after the accident.

(6) The data submitted by the Japanese authorities provide evidence that no exceedance of the maximum levels of radioactivity were observed in feed and food originating from Akita during the fifth and sixth 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 Akita regarding the presence of radioactivity before export to the Union.

(7) For feed and food products originating in the prefecture of Fukushima, taking into account the occurrence data provided by the Japanese authorities for 2014, 2015 and 2016, it is appropriate to lift the requirement of sampling and analysis before export to the Union for rice 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.

(8) As regards the prefectures of Gunma, Ibaraki, Tochigi, Iwate and Chiba, it is currently required to sample and analyse mushrooms, fish and fishery products and certain edible wild plants and the processed and derived products thereof, before export to the Union. The occurrence data for the fifth and sixth growing season provide evidence that for some of those feed and food commodities originating from certain prefectures, it is appropriate to no longer require sampling and analysis before export to the Union.

(9) As regards the prefectures of Akita, Yamagata and Nagano, 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 fifth and sixth growing season provide evidence that it is no longer necessary to require the sampling and analysis of feed and food originating in the prefecture of Akita and it is appropriate to no longer require sampling and analysis before export to the Union for some of the edible wild plants from the prefectures of Yamagata and Nagano.

(10) The occurrence data from the fifth and sixth growing season provide evidence that it is appropriate to maintain the requirement for sampling and analysis before export to the Union for mushrooms originating from the prefectures of Shizuoka, Yamanashi and Niigata.

(11) Taking into account the occurrence data from the fifth and sixth 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.

(12) 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 five years. Therefore, it is appropriate to keep the low frequency of controls at import.

(13) 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 seventh and eight growing season (2017 and 2018) after the accident are available, i.e. by 30 June 2019.

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

(15) 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) in Article 1, the introductory sentence is replaced by the following:

> This Regulation shall apply to feed and food, including minor food, within the meaning of Article 1 of Council Regulation (Euratom) 2016/52[(11)] ('the products') originating in or consigned from Japan, with the exclusion of:;

(2) Article 5 is amended as follows:

(a) paragraph (1) is replaced by the following:

> 1. Each consignment of feed and food referred to and falling under the CN codes mentioned in Annex II and the compound feed and food containing more than 50 % of these feed and food, originating in or consigned from Japan, shall be accompanied by a valid original declaration drawn up and signed in accordance with Article 6;

(b) paragraph (3) (c) is replaced by the following:

(c) the product is consigned from but does not originate in one of the prefectures listed in Annex II, for which the sampling and analysis of this product is required and has not been exposed to radioactivity during transiting or processing; or;

(c) paragraph (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 prefectures of Fukushima, Gunma, Tochigi, Miyagi, Ibaraki, Chiba or Iwate 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.;

(3) Article 14 is replaced by the following:

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/2058. (See end of Document for details)*

Article 14

Review

This Regulation shall be reviewed before 30 June 2019.;

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

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

(6) Annex III is replaced by the text set out in Annex III 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 imported into the Union under the conditions laid down by Implementing Regulation (EU) 2016/6 prior to its amendment by 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, 10 November 2017.

For the Commission

The President

Jean-Claude JUNCKER

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/2058. (See end of Document for details)*

ANNEX I

ANNEX Maximum levels for food(Bq/kg) as provided for in the Japanese legislationFor dried products that are intended to be consumed in a reconstituted state, the maximum level applies to the reconstituted product as ready for consumption.For dried mushrooms a reconstitution factor of 5 is of application.For tea, the maximum level applies to the infusion brewed from unfermented tea leaves. The processing factor for dried tea is 50, and therefore a maximum level of 500 Bq/kg on dried tea leaves ensures that the level in the brewed tea does not exceed the maximum level of 10 Bq/kg.In order to ensure consistency with maximum levels currently applied in Japan, these values replace on a provisional basis the values laid down in Regulation (Euratom) 2016/52.Foods for infants and young childrenMilk and milk-based drinksMineral water and similar drinks and tea brewed from unfermented leavesOther foodSum of caesium-134 and caesium-137505010100

MAXIMUM LEVELS FOR FEED[0](BQ/KG) AS PROVIDED FOR IN THE JAPANESE LEGISLATION

	Feed intended for cattle and horses	**Feed intended for pigs**	**Feed intended for poultry**	**Feed for fish[c]**
Sum of caesium-134 and caesium-137	100[b]	80[b]	160[b]	40[b]

a Maximum level is relative to feed with a moisture content of 12 %.

b In order to ensure consistency with maximum levels currently applied in Japan, these values replace on a provisional basis the values laid down in Regulation (Euratom) 2016/52.

c With the exemption of feed for ornamental fish.

ANNEX II

ANNEX II

Feed and food for which sampling and analysis regarding the presence of caesium-134 and caesium-137 are required before export to the Union

(a) products originating in the prefecture of Fukushima:

— mushrooms and derived products thereof falling within CN codes 0709 51 00, 0709 59, 0710 80 61, 0710 80 69, 0711 51 00, 0711 59 00, 0712 31 00, 0712 32 00, 0712 33 00, ex 0712 39 00, 2003 10, 2003 90 and ex 2005 99 80;

— fish and fishery products falling within CN codes 0302, 0303, 0304, 0305, 0308, 1504 10, 1504 20, 1604 with the exception of:

— Japanese amberjack (*Seriola quinqueradiata*) and yellowtail amberjack (*Seriola lalandi*) falling within CN codes ex 0302 89 90, ex 0303 89 90, ex 0304 49 90, ex 0304 59 90, ex 0304 89 90, ex 0304 99 99, ex 0305 10 00, ex 0305 20 00, ex 0305 39 90, ex 0305 49 80, ex 0305 59 85, ex 0305 69