Commission Implementing Regulation (EU) 2016/6 of 5 January 2016 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 and repealing Implementing Regulation (EU) No 322/2014 (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) 2016/6

of 5 January 2016

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 and repealing Implementing Regulation (EU) No 322/2014

(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 Implementing Regulation (EU) No 961/2011[(3)] which was later replaced by Implementing Regulation (EU) No 284/2012[(4)]. The latter was replaced by Implementing Regulation (EU) No 996/2012[(5)] which was later replaced by Implementing Regulation (EU) No 322/2014[(6)].

(3) Since Implementing Regulation (EU) No 322/2014 provides that the measures provided therein are to be reviewed by 31 March 2015 and in order to take into account the further development of the situation and occurrence data for 2014 on radioactivity in feed and food, it is appropriate to repeal Implementing Regulation (EU) No 322/2014 and adopt a new Regulation.

Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2016/6. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(4) The existing measures have been reviewed taking into account more than 81 000 occurrence data on radioactivity in feed and food other than beef and more than 237 000 occurrence data on radioactivity in beef, provided by the Japanese authorities concerning the fourth growing season after the accident.

(5) Alcoholic beverages falling within the CN codes 2203 to 2208 are no longer explicitly excluded from the scope as the requirements as regards sampling and analysis and declaration apply to a defined list of feed and food.

(6) The data submitted by the Japanese authorities provide evidence that it is no longer necessary to require the sampling and analysis of feed and food originating in the prefectures of Aomori and Saitama regarding the presence of radioactivity before export to the Union.

(7) For feed and food products originating in the prefecture of Fukushima, the criterion of no non-compliance found by the Japanese authorities for two consecutive years (2013 and 2014), has been used for the current review to lift the requirement of sampling and analysis before export to the Union for those feed and food products. 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) It is appropriate to present the provisions of this Regulation 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, in order to facilitate the application of this Regulation.

(9) As regards the prefectures of Gunma, Ibaraki, Tochigi, Miyagi, Iwate and Chiba, it is currently required to sample and analyse mushrooms, fishery products, rice, soybeans, buckwheat and certain edible wild plants and the processed and derived products thereof, before export to the Union. The same requirements apply to compound foodstuffs containing more than 50 % of those products. The occurrence data for the fourth growing season provide evidence that for several of those feed and food commodities, it is appropriate to no longer require sampling and analysis before export to the Union.

(10) 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 fourth growing season provide evidence that for one of the edible wild plants, it is appropriate to no longer require sampling and analysis before export to the Union. On the other hand, as a consequence of the finding of non-compliance in an edible wild plant, it is appropriate to require sampling and analysis of this edible wild plant originating from those prefectures.

(11) The occurrence data from the fourth 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. As a consequence of the finding of non-compliance in an edible wild plant, it is appropriate to require sampling and analysis of this edible wild plant originating from those prefectures.

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(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 three years. Therefore, it is appropriate to keep the low frequency of controls at import and to no longer require that Member States inform the Commission every three months through the rapid alert system for food and feed (RASFF) of all analytical results.

(13) The transitional measures provided for in Japanese legislation, set out in Annex III to Implementing Regulation (EU) No 322/2014, are no longer of relevance for the feed and food currently imported from Japan and should therefore no longer be referred to in this Regulation.

(14) It is appropriate to foresee a review of the provisions of this Regulation when the results of sampling and analysis on the presence of radioactivity of feed and food of the fifth growing season (2015) after the accident are available, i.e. by 30 June 2016. The criteria for the review will be determined at the time of the review.

(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

Scope

[[F1]This Regulation shall apply to feed and food, including minor food, within the meaning of Article 1 of Council Regulation (Euratom) 2016/52[(7)] ('the products') originating in or consigned from Japan, with the exclusion of:**]**

(a) products which have been harvested and/or processed before 11 March 2011;

(b) personal consignments of feed and food of animal origin which are covered by Article 2 of Commission Regulation (EC) No 206/2009[(8)];

(c) personal consignments of feed and food other than of animal origin which are non-commercial and destined to a natural person for personal consumption and use only. In case of doubt, the burden of proof lies with the recipient of the consignment.

Textual Amendments

F1 Substituted by 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).

Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2016/6. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Article 2

Definition

For the purposes of this Regulation, 'consignment' means:

— for products for which a sampling and analysis is required by Article 5, a quantity of any of the feed or food falling within the scope of this Regulation of the same class or description, covered by the same document(s), conveyed by the same means of transport and coming from the same prefecture of Japan,

— for the other products falling within the scope of this Regulation, a quantity of any of the feed or food falling within the scope of this Regulation, covered by the same document(s), conveyed by the same means of transport and coming from one or more prefectures of Japan, within the limits set in the declaration referred to in Article 5.

Article 3

Import into the Union

Products may only be imported into the Union if they comply with this Regulation.

Article 4

Maximum levels of caesium-134 and caesium-137

Products shall comply with the maximum level for the sum of caesium-134 and caesium-137 as set out in Annex I.

Article 5

Declaration for certain products

[F1 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.**]**

2 The declaration referred to in paragraph 1 shall attest that the products comply with the legislation in force in Japan.

3 The declaration referred to in paragraph 1 shall furthermore certify that:

a the product has been harvested and/or processed before 11 March 2011; or

b the product does not originate in and is not consigned from one of the prefectures listed in Annex II(9), for which the sampling and analysis of this product is required; or

[F1 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**]**

d the product originates in one of the prefectures listed in Annex II for which the sampling and analysis of this product is required and is accompanied by an analytical report containing the results of sampling and analysis; or

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e where the origin of the product or of its ingredients present at more than 50 % is unknown, the product is accompanied by an analytical report containing the results of sampling and analysis.

[[F2]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.**]**

Textual Amendments

F1 Substituted by 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).

F2 Substituted by 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).

Article 6

Drawing up and signing of the declaration

1 The declaration referred to in Article 5 shall be drawn up in accordance with the model set out in Annex III.

2 For the products referred to in points (a), (b) and (c) of Article 5(3), the declaration shall be signed by an authorised representative of the competent Japanese authority or by an authorised representative of an instance authorised by the competent Japanese authority under the authority and supervision of the competent Japanese authority.

3 For the products referred to in points (d) and (e) of Article 5(3) and in Article 5(4), the declaration shall be signed by an authorised representative of the competent Japanese authority and shall be accompanied by an analytical report containing the results of sampling and analysis.

Article 7

Identification

Each consignment of products referred to in Article 5(1) shall be identified by means of a code which shall be indicated on the declaration referred to in Article 5, on the analytical report referred to in Article 6(3), on the common entry document or common veterinary entry document, referred to in Article 9(2) and on the sanitary certificate accompanying the consignment.