Commission Implementing Regulation (EU) No 495/2013 of 29 May 2013 amending Implementing Regulation (EU) No 996/2012 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) No 495/2013

of 29 May 2013

amending Implementing Regulation (EU) No 996/2012 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 of 25 March 2011 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[(2)] was adopted. That Regulation was later replaced by Commission Implementing Regulation (EU) No 961/2011[(3)], Commission Implementing Regulation (EU) No 284/2012[(4)] and Commission Implementing Regulation (EU) No 996/2012[(5)].

(3) Article 17 of Implementing Regulation (EU) No 996/2012 provides for a review of the provisions when the results of sampling and analysis on the presence of radioactivity of feed and food of the third growing season after the accident will be available, i.e. by 31 March 2014. However, in accordance with that Article, the provisions concerning the products for which the harvest is mainly in the second part of the second growing

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 495/2013. (See end of Document for details)*

season and therefore all the data of the second growing season are not yet available, should be reviewed by 31 March 2013.

(4) The measures have been reviewed taking into account the occurrence data on radioactivity in feed and food provided by the Japanese authorities for the period between September 2012 and January 2013.

(5) As regards the prefectures of Gunma, Ibaraki, Tochigi, Miyagi, Saitama, Tokyo, Iwate, Chiba and Kanagawa, Implementing Regulation (EU) No 996/2012 requires to sample and analyse, before export to the Union, mushrooms, tea, fishery products, certain edible wild plants, certain vegetables, certain fruits, rice and soybeans and the processed and derived products thereof. Following the detailed assessment of the data provided, pears, taro, yacon, pome fruit, pawpaw and scallops should be removed from the list of products for which sampling and analysis are required before export while buckwheat, lotus root and threeleaf arrowroot should be included in that list. Given that the import of fresh bovine meat from Japan has been recently allowed by Commission Implementing Regulation (EU) No 196/2013 of 7 March 2013 amending Annex II to Regulation (EU) No 206/2010 as regards the new entry for Japan in the list of third countries or parts thereof from which imports into the European Union of certain fresh meat are authorised[6], it is necessary to add fresh bovine meat to the list of products for which sampling and analysis are required before export.

(6) Following findings of non-compliance, it is appropriate to add the requirement for sampling and analysis before export for mushrooms from the prefectures Nagano, Niigata and Aomori.

(7) Therefore Implementing Regulation (EU) No 996/2012 should be amended accordingly.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) No 996/2012 is amended as follows:

(1) in Article 5, paragraph 3 is replaced by the following:

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, other than tea and mushrooms originating in the prefecture Shizuoka and other than mushrooms originating in the prefectures Yamanashi, Nagano, Niigata or Aomori, originates in and is consigned from a prefecture other than Fukushima, Gunma, Ibaraki, Tochigi, Miyagi, Saitama, Tokyo, Chiba, Kanagawa and Iwate; or

c the product originates in and is consigned from Gunma, Ibaraki, Tochigi, Miyagi, Saitama, Tokyo, Chiba, Kanagawa and Iwate but is not listed in Annex IV to this Regulation (and consequently no analysis before export is required); or

d the product is consigned from Fukushima, Gunma, Ibaraki, Tochigi, Miyagi, Saitama, Tokyo, Chiba, Kanagawa and Iwate prefectures, but does not originate in one of those prefectures and has not been exposed to radioactivity during transiting; or

e where the product is tea or mushrooms originating in Shizuoka prefecture or mushrooms originating in Yamanashi, Nagano, Niigata or Aomori prefecture, or a derived product thereof or a compound feed or food containing more than 50 % of these products, the product is accompanied by an analytical report containing the results of sampling and analysis; or

f where the product, listed in Annex IV to this Regulation, originates in Fukushima, Gunma, Ibaraki, Tochigi, Miyagi, Saitama, Tokyo, Chiba, Kanagawa and Iwate prefectures, or is a compound feed or food containing more than 50 % of these products, the product is accompanied by an analytical report containing the results of sampling and analysis. The list of products in Annex IV is without prejudice to the requirements of Regulation (EC) No 258/97 of the European Parliament and of the Council of 27 January 1997 concerning novel foods and novel food ingredients[7]; or

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

(2) Article 16 is replaced by the following:

Article 16

Transitional measures

1 By way of derogation from Article 3, products referred to in Article 1 may be imported into the Union if they comply with Implementing Regulation (EU) No 284/2012 where:

a the products left Japan before the entry into force of Implementing Regulation (EU) No 996/2012; or

b the products are accompanied by a declaration in accordance with Implementing Regulation (EU) No 284/2012 which was issued before 1 November 2012 and the products have left Japan before 1 December 2012.

2 By way of derogation from Article 3, products referred to in Article 1 may be imported into the Union if they comply with Implementing Regulation (EU) No 996/2012 where:

a the products left Japan before the entry into force of Commission Implementing Regulation (EU) No 495/2013[8]; or

b the products are accompanied by a declaration in accordance with Implementing Regulation (EU) No 996/2012 which was issued before 1 June 2013 and the products have left Japan before 1 July 2013.

3 By way of derogation from Article 3, for buckwheat, lotus root and threeleaf arrowroot originating in and consigned from Gunma, Ibaraki, Tochigi, Miyagi, Saitama, Tokyo, Chiba, Kanagawa and Iwate and mushrooms originating in or consigned from Nagano, Niigata or Aomori, the requirement of sampling and analysis before export to the Union shall not apply where those products left Japan before the entry into force of Implementing Regulation (EU) No 495/2013.;

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 495/2013. (See end of Document for details)*

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

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

Article 2

Entry into force

This Regulation shall enter into force on the third 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, 29 May 2013.

For the Commission

The President

José Manuel BARROSO

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 495/2013. (See end of Document for details)*

ANNEX I

ANNEX

Declaration for the import into the Union of

..... (Product and country of origin)

Batch identification Code ..... Declaration Number .....

According to the provisions of Implementing Regulation (EU) No 996/2012 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 the

.....

(authorised representative referred to in point 2 or point 3 of Article 6 of Implementing Regulation (EU) No 996/2012)

DECLARES that the .....

..... (products referred to in Article 1)

of this consignment composed of: .....

.....

..... (description of consignment, product, number and type of packages, gross or net weight)

embarked at ..... (embarkation place)

on ..... (date of embarkation)

by ..... (identification of transporter)

going to ..... (place and country of destination)

which comes from the establishment .....

..... (name and address of establishment)

is compliant with the legislation in force in Japan as regards the maximum levels for the sum of caesium-134 and caesium-137.

DECLARES that the consignment concerns feed or food

☐ **not falling under the transitional measures** provided in the Japanese legislation (see Annex III to Implementing Regulation (EU) No 996/2012) as regards the maximum level for the sum of caesium-134 and caesium-137

☐ **falling under the transitional measures** provided in the Japanese legislation (see Annex III to Implementing Regulation (EU) No 996/2012) as regards the maximum level for the sum of caesium-134 and caesium-137

DECLARES that the consignment concerns:

☐ feed or food that has been harvested and/or processed before 11 March 2011;

☐ feed or food that originates in and is consigned from a prefecture other than Fukushima, Gunma, Ibaraki, Tochigi, Miyagi, Saitama, Tokyo, Chiba, Kanagawa and Iwate, other than tea and mushrooms originating in Shizuoka prefecture and other than mushrooms originating in Yamanashi, Nagano, Niigata or Aomori prefecture;

☐ feed and food that is consigned from Fukushima, Gunma, Ibaraki, Tochigi, Miyagi, Saitama, Tokyo, Chiba, Kanagawa and Iwate prefectures, but does not originate in one of those prefectures and has not been exposed to radioactivity during transiting;

☐ feed and food not listed in Annex IV to Implementing Regulation (EU) No 996/2012, that originates in and is consigned from Gunma, Ibaraki, Tochigi, Miyagi, Saitama, Tokyo, Chiba, Kanagawa and Iwate;

☐ tea or mu
prefecture

(date) in t

(name of
is attache

☐ mushroom
Nagano, N
analysis o

(date) in t

(name of
is attache

☐ feed and f
more than
Chiba, Ka
laboratory
to determi

☐ feed and
origin and
on .....
the radion

Done at .....

Part to be co

☐ The consi
Union

☐ The consi
the Union

.....

.....

D