# Commission Implementing Regulation (EU) No 996/2012 of 26 October 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 and repealing Implementing Regulation (EU) No 284/2012 (Text with EEA relevance)

## COMMISSION IMPLEMENTING REGULATION (EU) No 996/2012

## of 26 October 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 and repealing Implementing Regulation (EU) No 284/2012

## (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 replaced by Commission Implementing Regulation (EU) No 961/2011[(3)] which was later replaced by Commission Implementing Regulation (EU) No 284/2012[(4)].

(3) Implementing Regulation (EU) No 284/2012 has been amended several times to take into account the development of the situation. Since now further amendments are required, it is appropriate to replace Implementing Regulation (EU) No 284/2012 by a new Regulation.

(4) The existing measures have been reviewed taking into account more than 26 000 occurrence data on radioactivity in feed and food provided by the Japanese authorities concerning the second growing season after the accident.

(5) It is appropriate to exclude personal consignments from the application of the provisions of this Regulation. For food and feed of animal orgin reference should be made to the provisions provided for in Commission Regulation (EC) No 206/2009 of 5 March 2009 on the introduction into the Community of personal consingments of products of animal origin and amending Regulation (EC) 136/2004[(5)]. For other feed and food, it should be provided that consignments can only be considered as personal consignments if they are non-commercial and are destined to a private person for personal consumption or use.

(6) The Japanese authorities have provided extensive information to the Commission that in addition to the already exempted alcoholic beverages (sake, whiskey and shochu) also other alcoholic beverages do not contain measurable levels of radioactivity. The process of polishing and fermentation reduces the radioactivity in the alcoholic beverage to a significant extent. It is therefore appropriate to exclude certain other alcoholic beverages from the scope of this Regulation in order to reduce the administrative burden for the Japanese authorities and the competent authorities of the importing Member States.

(7) 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 Yamanashi and Shizuoka on the presence of radioactivity before export to the Union. The requirement for sampling and analyses should only be maintained for tea from Shizuoka and mushrooms from Shizuoka and Yamanashi.

(8) Since non-compliant or significant levels of radioactivity continue to be found in feed and food originating in the prefecture of Fukushima, it is appropriate to maintain the existing requirement of sampling and analysis before export to the Union for all feed and food originating in that prefecture. However, the general exemptions, such as for alcoholic beverages and personal consignments, should continue to apply in relation to such feed and food.

(9) As regards the prefectures of Gunma, Ibaraki, Tochigi, Miyagi, Saitama, Tokyo, Iwate, Chiba and Kanagawa for which it is currently required to sample and analyse all feed and food before export to the Union, it is appropriate to limit that requirement to mushrooms, tea, fishery products, certain edible wild plants, certain vegetables, certain fruits, rice and soybeans and the processed and derived products thereof. The same requirements should apply to compound foodstuffs containing more than 50 % of (an) ingredient(s) for which pretesting before export to the Union is required.

(10) 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 occurred for more than a year. Therefore it is appropriate to reduce the frequency of controls at import and the reporting of the results to the Commission.

(11) It is appropriate to foresee a next 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, for the

products for which the harvest is mainly in the second part of the second growing season and therefore all the data of the second growing season are not yet available, it is appropriate to foresee a review of the provisions for these products by 31 March 2013.

(12) 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*

**Scope**

This Regulation shall apply to feed and food within the meaning of Article 1(2) of Council Regulation (Euratom) No 3954/87[(6)] originating in or consigned from Japan, with the exclusion of:

(a) products which left Japan before 28 March 2011;

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

(c) alcoholic beverages falling within CN codes 2203 to 2208;

(d) personal consignments of feed and food of animal origin which are covered by Article 2 of Regulation (EC) 206/2009;

(e) personal consignments of feed and food other than of animal origin which are not-commercial and destined to a private person for personal consumption and use only. In case of doubt, the burden of proof lies with the recipient of the consignment.

*Article 2*

**Definitions**

For the purposes of this Regulation, ‘transitional measures provided in the Japanese legislation’ means the transitional measures adopted by the Japanese authorities on 24 February 2012 as regards the maximum levels for the sum of caesium-134 and caesium-137 as set out in Annex III.

‘Consignment’ means 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(s) of Japan, within the limits permitted by the declaration referred to in Article 5.

*Article 3*

**Import into the Union**

Feed and food (hereinafter -‘the products’) referred to in Article 1 may only be imported into the Union if they comply with this Regulation.

**Changes to legislation:** *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 996/2012. (See end of Document for details)*

*Article 4*

**Maximum levels of caesium-134 and caesium-137**

1 The products referred to in Article 1, except those appearing in Annex III, shall comply with the maximum level for the sum of caesium-134 and caesium-137 as as set out in Annex II.

2 Products appearing in Annex III shall comply with the maximum level for radioactive caesium set out in that Annex.

*Article 5*

**Declaration**

1 Each consignment of products referred to in Article 1 shall be accompanied by a valid declaration drawn up and signed in accordance with Article 6.

2 The declaration referred to in paragraph 1 shall:

a attest that the products comply with the legislation in force in Japan and

b specify whether the products are falling or not under the transitional measures provided for in the Japanese legislation.

**[**[F1]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.**]**

4 Point (f) of paragraph 3 shall apply also to products caught or harvested in the coastal waters of the prefectures referred to therein, irrespective of where such products are landed.

**Textual Amendments**

**F1** Substituted by 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).

*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 I.

2 For the products referred to in the points (a), (b), (c) or (d) 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 the point (e), (f) and (g) of Article 5(3), 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 1 shall be identified by means of a code which shall be indicated on the declaration referred to in Article 5(1), on the analytical report referred to in Article 5(3), on the sanitary certificate and on any commercial documents accompanying the consignment.

*Article 8*

**Border inspection posts and designated point of entry**

Consignments of products referred to in Article 1, except those falling within the scope of Council Directive 97/78/EC[8], shall be introduced into the Union through a designated point of entry within the meaning of point (b) of Article 3 of Commission Regulation (EC) No 669/2009[9] (hereinafter – 'the designated point of entry').

*Article 9*

**Prior notification**

Feed and food business operators or their representatives shall give prior notification of the arrival of each consignment of the products referred to in Article 1, at least