Council Regulation (EC) No 733/2008 of 15 July 2008 on the conditions governing imports of agricultural products originating in third countries following the accident at the Chernobyl nuclear power station (Codified version)

COUNCIL REGULATION (EC) No 733/2008

of 15 July 2008

on the conditions governing imports of agricultural products originating in third countries following the accident at the Chernobyl nuclear power station

(Codified version)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) Council Regulation (EEC) No 737/90 of 22 March 1990 on the conditions governing imports of agricultural products originating in third countries following the accident at the Chernobyl nuclear power station[(1)] has been substantially amended several times[(2)]. In the interests of clarity and rationality the said Regulation should be codified.

(2) Following the accident at the Chernobyl nuclear power station on 26 April 1986, considerable quantities of radioactive elements were released into the atmosphere.

(3) Without prejudice to the possibility of resorting, where necessary, in the future to the provisions of Council Regulation (Euratom) No 3954/87 of 22 December 1987 laying down maximum permitted levels of radioactive contamination of foodstuffs and of feedingstuffs following a nuclear accident or any other case of radiological emergency[(3)], the Community should ensure, with regard to the specific effects of the accident at Chernobyl, that agricultural products and processed agricultural products intended for human consumption and likely to be contaminated are introduced into the Community only according to common arrangements.

(4) Those common arrangements should safeguard the health of consumers, maintain, without having unduly adverse effects on trade between the Community and third countries, the unified nature of the market and prevent deflections of trade.

(5) Compliance with the maximum permitted levels should be the subject of appropriate checks, which may lead to prohibiting imports in cases of non-compliance.

(6) Radioactive contamination in many agricultural products has decreased and will continue to decrease to the levels existing before the Chernobyl accident. A procedure should therefore be established enabling such products to be excluded from the scope of this Regulation.

(7) Since this Regulation covers all agricultural products and processed agricultural products intended for human consumption, there is no need, in the present case, to apply the procedure referred to in Article 14 of Council Directive 2004/68/EC of 26 April 2004 laying down animal health rules for the importation into and transit through the Community of certain live ungulate animals[(4)].

(8) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[(5)],

HAS ADOPTED THIS REGULATION:

Article 1

With the exception of the products unfit for human consumption listed in Annex I and those products which may come to be excluded from the scope of this Regulation in accordance with the procedure referred to in Article 5(2), this Regulation shall apply to the products originating in third countries covered by:

(a) Annex I to the Treaty;

(b) Council Regulation (EC) No 1667/2006 of 7 November 2006 on glucose and lactose[(6)];

(c) Council Regulation (EEC) No 2783/75 of 29 October 1975 on the common system of trade for ovalbumin and lactalbumin[(7)];

(d) Council Regulation (EC) No 3448/93 of 6 December 1993 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products[(8)].

Article 2

1 Without prejudice to other provisions in force, the release for free circulation of the products referred to in Article 1 shall be subject to compliance with the maximum permitted levels laid down in paragraph 2 of this Article:

2 The accumulated maximum radioactive level in terms of caesium-134 and -137 shall be[(9)]:

a 370 Bq/kg for milk and milk products listed in Annex II and for foodstuffs intended for the special feeding of infants during the first four to six months of life, which meet, in themselves, the nutritional requirements of this category of persons and are put up for retail sale in packages which are clearly identified and labelled ‘food preparation for infants’;

b 600 Bq/kg for all other products concerned.

Article 3

1 Member States shall check compliance with the maximum permitted levels laid down in Article 2(2) in respect of the products referred to in Article 1, taking into account contamination levels in the country of origin.

Checking may also include the presentation of export certificates.

Depending on the results of the checks carried out, Member States shall take the measures required for Article 2(1) to apply, including the prohibition of release for free circulation, taking each case individually or generally for a given product.

2 Each Member State shall provide the Commission with all information concerning the application of this Regulation, notably cases of non-compliance with the maximum permitted levels.

The Commission shall circulate such information to the other Member States.

3 Where cases of repeated non-compliance with the maximum permitted levels have been recorded, the necessary measures may be taken in accordance with the procedure referred to in Article 5(2).

Such measures may even include the prohibition of the import of products originating in the third country concerned.

Article 4

The arrangements for applying this Regulation, any amendments to be made to the products in Annex I, and the list of products excluded from this Regulation shall be adopted in accordance with the procedure referred to in Article 5(2).

Article 5

1 The Commission shall be assisted by a committee.

2 Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at one month.

Article 6

Council Regulation (EEC) No 737/90, as amended by the Regulations listed in Annex III, is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex IV.

Article 7

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

[[F1]It shall expire:

1. on 31 March 2020, unless the Council decides otherwise at an earlier date, in particular if the list of excluded products referred to in Article 4 covers all the products fit for human consumption to which this Regulation applies;

2. upon the entry into force of the Commission Regulation referred to in Article 2(1) of Regulation (Euratom) No 3954/87, if such entry into force takes place before 31 March 2020.**]**

Textual Amendments

F1 Substituted by Council Regulation (EC) No 1048/2009 of 23 October 2009 amending Regulation (EC) No 733/2008 on the conditions governing imports of agricultural products originating in third countries following the accident at the Chernobyl nuclear power station.

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 733/2008. (See end of Document for details)*

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

ANNEX I

PRODUCTS UNFIT FOR HUMAN CONSUMPTION

CN code	**Description**
ex 0101 10 10 ex 0101 90 19	Racehorses
ex 0106	Other (live animals, excluding domestic rabbits and pigeons: not for human consumption)
0301 10	Live ornamental fish
0408 11 20 0408 19 20 0408 91 20 0408 99 20	Eggs, not in shell, and egg yolks, unfit for human consumption[a]
ex 0504 00 00	Non-edible guts, bladders and stomachs of animals (other than fish), whole and pieces thereof
0511 10 00 ex 0511 91 90 0511 99	Animal products not elsewhere specified or included, excluding edible animal blood; dead animals of Chapter 1 or Chapter 3, unfit for human consumption
ex 0713	Dried leguminous vegetables, shelled, whether or not skinned or split, for sowing
1001 90 10	Spelt for sowing[a]
1005 10 11 1005 10 13 1005 10 15 1005 10 19	Hybrid maize for sowing[a]
1006 10 10	Rice for sowing[a]
1007 00 10	Hybrid sorghum for sowing[a]
1201 00 10 1202 10 10 1204 00 10 1205 10 10 1206 00 10 1207 20 10 1207 40 10 1207 50 10 1207 91 10 1207 99 15	Oil seeds and oleaginous fruit, whole or broken, for sowing[a]
1209	Seeds, fruits and spores, of a kind used for sowing

a Entry under this subheading is subject to conditions laid down in the relevant Community provisions.