

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)

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, as amended by Commission Implementing Regulation (EU) 2017/2058 ⁽⁸⁾ provides that the measures provided therein are to be reviewed by 30 June 2019 and in order to take into account further development of the situation and occurrence data for 2017 and 2018 on radioactivity in feed and food, it is appropriate to amend Implementing Regulation (EU) 2016/6.

⁽¹⁾ OJ L 31, 1.2.2002, p. 1.

⁽²⁾ 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 (OJ L 80, 26.3.2011, p. 5).

⁽³⁾ Commission Implementing Regulation (EU) No 961/2011 of 27 September 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 and repealing Regulation (EU) No 297/2011 (OJ L 252, 28.9.2011, p. 10).

⁽⁴⁾ Commission Implementing Regulation (EU) No 284/2012 of 29 March 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 961/2011 (OJ L 92, 30.3.2012, p. 16).

⁽⁵⁾ 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 (OJ L 299, 27.10.2012, p. 31).

⁽⁶⁾ Commission Implementing Regulation (EU) No 322/2014 of 28 March 2014 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 (OJ L 95, 29.3.2014, p. 1).

⁽⁷⁾ 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 (OJ L 3, 6.1.2016, p. 5).

⁽⁸⁾ 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 (OJ L 294, 11.11.2017, p. 29).

- (4) The existing measures have been reviewed taking into account more than 100 000 occurrence data on radioactivity in feed and food other than beef and more than 534 000 occurrence data on radioactivity in beef, provided by the Japanese authorities concerning the seventh and eighth growing season (January 2017 until December 2018) after the accident.
- (5) The data submitted by the Japanese authorities for 2017 and 2018 provide evidence that no exceedance of the maximum levels of radioactivity were observed in feed and food originating from Chiba, Tochigi and Iwate during the eighth 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 Chiba, Tochigi and Iwate regarding the presence of radioactivity before export to the Union.
- (6) For feed and food products originating in the prefecture of Fukushima, taking into account the occurrence data provided by the Japanese authorities for 2017 and 2018, it is appropriate to lift the requirement of sampling and analysis before export to the Union for soybeans, giant butterbur, bracken, Japanese royal fern and ostrich fern 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.
- (7) As regards the prefectures of Miyagi, Ibaraki and Gunma, it is currently required to sample and analyse mushrooms, fishery products and certain edible wild plants and derived products thereof, before export to the Union. The occurrence data for the eighth growing season provide evidence that it is appropriate to no longer require sampling and analysis before export to the Union for fish and fishery products and certain edible wild plants and derived products thereof from the prefectures of Miyagi, Ibaraki and Gunma and also for mushrooms from the prefecture of Ibaraki. With regard to edible wild plants and derived products thereof, the sampling and analysis should no longer be required for bamboo shoots for the prefectures Ibaraki and Gunma, but it should be maintained for the prefecture Miyagi; and the sampling and analysis should no longer be required for Ostrich fern and Japanese royal fern for the prefecture Miyagi. On the other hand, non-compliances have been found in *Aralia* spp. from the prefecture Gunma during the eighth growing season and therefore it is appropriate to require sampling and analysis for *Aralia* spp. and derived products thereof from the prefecture Gunma before its export to the Union.
- (8) As regards the prefectures of Nagano and Niigata, 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 eighth growing season provide evidence that it is appropriate to no longer require sampling and analysis before export to the Union for mushrooms for both prefectures and also for the edible wild plants Ostrich fern, Japanese royal fern and *Aralia* spp. and derived products thereof from the prefecture of Nagano.
- (9) The occurrence data from the seventh and eighth growing season provide evidence that it is appropriate to maintain the requirement for sampling and analysis before export to the Union for mushrooms and koshiabura and derived products thereof originating from the prefectures of Shizuoka, Yamanashi and Yamagata.
- (10) Taking into account the occurrence data from the seventh and eighth 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.
- (11) 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 seven years. Therefore, it is appropriate to keep the low frequency of controls at import.
- (12) 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 ninth and tenth growing season (2019 and 2020) after the accident are available, i.e. by 30 June 2021.
- (13) Implementing Regulation (EU) 2016/6 should therefore be amended accordingly.

(14) 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) Article 5(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 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.;

(2) Article 14 is replaced by the following:

'Article 14

Review

This Regulation shall be reviewed before 30 June 2021.;

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

(4) Annex III is replaced by the text set out in Annex II 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 the entry into force of 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, 24 October 2019.

For the Commission
The President

Jean-Claude JUNCKER

Annex II to Implementing Regulation (EU) 2016/6 is replaced by the following:

ANNEX II

Food and feed 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 80, ex 0305 72 00, ex 0305 79 00, ex 1504 10, ex 1504 20, ex 1604 19 91, ex 1604 19 97 and ex 1604 20 90;
 - greater amberjack (*Seriola dumerili*) 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 80, ex 0305 72 00, ex 0305 79 00, ex 1504 10, ex 1504 20, ex 1604 19 91, ex 1604 19 97 and ex 1604 20 90;
 - Japanese seabream (*Pagrus major*) falling within CN codes 0302 85 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 80, ex 0305 72 00, ex 0305 79 00, ex 1504 10, ex 1504 20, ex 1604 19 91, ex 1604 19 97 and ex 1604 20 90;
 - white trevally (*Pseudocaranx dentex*) falling within CN codes ex 0302 49 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 80, ex 0305 72 00, ex 0305 79 00, ex 1504 10, ex 1504 20, ex 1604 19 91, ex 1604 19 97 and ex 1604 20 90;
 - Pacific bluefin tuna (*Thunnus orientalis*) falling within CN codes ex 0302 35, ex 0303 45, 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 80, ex 0305 72 00, ex 0305 79 00, ex 1504 10, ex 1504 20, ex 1604 14 41, ex 1604 14 48 and ex 1604 20 70;
 - Pacific chub mackerel (*Scomber japonicus*) falling within CN codes ex 0302 44 00, ex 0303 54 10, ex 0304 49 90, ex 0304 59 90, ex 0304 89 49, ex 0304 99 99, ex 0305 10 00, ex 0305 20 00, ex 0305 39 90, ex 0305 49 30, ex 0305 54 90, ex 0305 69 80, ex 0305 72 00, ex 0305 79 00, ex 1504 10, ex 1504 20, 1604 15 and ex 1604 20 50;
- *Aralia* spp. and derived products thereof falling within CN codes ex 0709 99, ex 0710 80, ex 0711 90 and ex 0712 90;
- bamboo shoot (*Phyllostachys pubescens*) and derived products thereof falling within CN codes ex 07 09 99, ex 0710 80, ex 0711 90, ex 0712 90, ex 2004 90 and 2005 91 00;
- koshiabura (shoot of *Eleuterococcus sciadophylloides*) and derived products thereof falling within CN codes ex 0709 99, ex 0710 80, ex 0711 90 and ex 0712 90;
- (Japanese) persimmon (*Diospyros* sp.) and products derived thereof falling within CN codes 0810 70 00, ex 0811 90, ex 0812 90 and ex 0813 50;

(b) products originating in the prefecture of Miyagi

- 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;
- *Aralia* spp. and derived products thereof falling within CN codes ex 0709 99, ex 0710 80, ex 0711 90 and ex 0712 90;

- bamboo shoot (*Phyllostacys pubescens*) and derived products thereof falling within CN codes ex 07 09 99, ex 0710 80, ex 0711 90, ex 0712 90, ex 2004 90 and 2005 91 00;
 - bracken (*Pteridium aquilinum*) and derived products thereof falling within CN codes ex 0709 99, ex 0710 80, ex 0711 90 and ex 0712 90;
 - koshiabura (shoot of *Eleuterococcus sciadophylloides*) and derived products thereof falling within CN codes ex 0709 99, ex 0710 80, ex 0711 90 and ex 0712 90;
- (c) **products originating in the prefecture of Gunma**
- 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;
 - *Aralia* spp. and derived products thereof falling within CN codes ex 0709 99, ex 0710 80, ex 0711 90 and ex 0712 90;
 - koshiabura (shoot of *Eleuterococcus sciadophylloides*) and derived products thereof falling within CN codes ex 0709 99, ex 0710 80, ex 0711 90 and ex 0712 90;
- (d) **products originating in the prefectures of Yamanashi, Yamagata or Shizuoka:**
- 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;
 - koshiabura (shoot of *Eleuterococcus sciadophylloides*) and derived products thereof falling within CN codes ex 0709 99, ex 0710 80, ex 0711 90 and ex 0712 90;
- (e) **products originating in the prefectures of Ibaraki, Nagano or Niigata:**
- koshiabura (shoot of *Eleuterococcus sciadophylloides*) and derived products thereof falling within CN codes ex 0709 99, ex 0710 80, ex 0711 90 and ex 0712 90;
- (f) **compound products containing more than 50 % of the products listed under points (a) to (e) of this Annex.'**
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Annex III to Implementing Regulation (EU) 2016/6 is replaced by the following:

ANNEX III

Declaration for the import into the Union of

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

Batch Identification Code **Declaration Number**

In accordance with Commission 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 the

.....

(authorised representative referred to in paragraph 2 or 3 of Article 6 of Implementing Regulation (EU) 2016/6)

DECLARES that the
..... (products referred to in Article 5(1) of Implementing Regulation (EU) 2016/6)
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:

- products referred to in Annex II to Implementing Regulation (EU) 2016/6 as amended by Implementing Regulation (EU) 2019/1787, which have been harvested and/or processed before 11 March 2011;
- products referred to in Annex II to Implementing Regulation (EU) 2016/6 as amended by Implementing Regulation (EU) 2019/1787, which do not originate in and are not consigned from one of the prefectures listed in Annex II to Implementing Regulation (EU) 2016/6 as amended by Implementing Regulation (EU) 2019/1787, for which the sampling and analysis of this product is required;
- products referred to in Annex II to Implementing Regulation (EU) 2016/6 as amended by Implementing Regulation (EU) 2019/1787, which are consigned from but do not originate in one of the prefectures listed in Annex II to Implementing Regulation (EU) 2016/6 as amended by Implementing Regulation (EU) 2019/1787 for which the sampling and analysis of this product is required and have not been exposed to radioactivity during transiting;
- products referred to in Annex II to Implementing Regulation (EU) 2016/6 as amended by Implementing Regulation (EU) 2019/1787, which originate in one of the prefectures listed in Annex II to Implementing Regulation (EU) 2016/6 as amended by Implementing Regulation (EU) 2019/1787, for which the sampling and analysis of this product is required, and have been sampled on (date) and subjected to laboratory analysis on (date) in the (name of laboratory), to determine the level of the radionuclides, caesium-134 and caesium-137. The analytical report is attached;

products referred to in Annex II to Implementing Regulation (EU) 2016/6 as amended by Implementing Regulation (EU) 2019/1787 of unknown origin or a derived product thereof or a compound feed or food containing more than 50 % of those products as (an) ingredient(s) of unknown origin, which have been sampled on (date) and subjected to laboratory analysis on (date) in the(name of laboratory), to determine the level of the radionuclides, caesium-134 and caesium-137. The analytical report is attached.

Done at on

Stamp and signature of the
authorised representative referred to in
Article 6(2) or (3) of Implementing
Regulation (EU) 2016/6
