

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 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 threelobed 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.

⁽¹⁾ OJ L 31, 1.2.2002, p. 1.

⁽²⁾ OJ L 80, 26.3.2011, p. 5.

⁽³⁾ OJ L 252, 28.9.2011, p. 10.

⁽⁴⁾ OJ L 92, 30.3.2012, p. 16.

⁽⁵⁾ OJ L 299, 27.10.2012, p. 31.

⁽⁶⁾ OJ L 65, 8.3.2013, p. 13.

- (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 ⁽¹⁾; 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.

⁽¹⁾ OJ L 43, 14.2.1997, p. 1.’;

- (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 (*); 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.

^(*) OJ L 143, 30.5.2013, p. 3.’;

- (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

ANNEX I

'ANNEX I

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 mushrooms or a compound feed or food containing more than 50 % of these products, originating in Shizuoka prefecture, and has been sampled on (date), 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;
- mushrooms or a compound feed or food containing more than 50 % of these products, originating in Yamanashi, Nagano, Niigata or Aomori prefecture, and has been sampled on (date), 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;
- feed and food listed in Annex IV to Implementing Regulation (EU) No 996/2012 or a compound feed or food containing more than 50 % of these products, that originates in Fukushima, Gunma, Ibaraki, Tochigi, Miyagi, Saitama, Tokyo, Chiba, Kanagawa and Iwate prefectures, and has been sampled on (date), 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;
- feed and food of unknown origin or containing more than 50 % of (an) ingredient(s) of unknown origin and has been sampled on (date), 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 point 2 or 3 of Article 6 of Implementing Regulation (EU) No 996/2012,

Part to be completed by the competent authority at the border inspection post (BIP) or designated point of entry (DPE)

- The consignment has been accepted to be presented to the custom authorities for release into free circulation in the Union
- The consignment has NOT been accepted to be presented to the custom authorities into release for free circulation in the Union

.....
(Competent authority, Member State)

.....
Date Stamp Signature'



ANNEX II

'ANNEX IV

Feed and food for which a sampling and analysis on the presence of caesium 134 and caesium-137 is required before export to the Union

- (a) products originating in the prefecture Fukushima:
- all products, taking into account the exemptions provided for in Article 1 of this Regulation.
- (b) products originating in the prefecture Shizuoka:
- tea and processed products thereof falling within CN codes 0902 2101 20 and 2202 90 10,
 - mushrooms and processed products thereof falling within CN codes 0709 51, 0709 59, 0710 80 61, 0710 80 69, 0711 51 00, 0711 59, 0712 31, 0712 32, 0712 33, 0712 39, 2003 10, 2003 90 and 2005 99 80.
- (c) products originating in the prefecture Yamanashi, Nagano, Niigata or Aomori:
- mushrooms and processed products thereof falling within CN codes 0709 51, 0709 59, 0710 80 61, 0710 80 69, 0711 51 00, 0711 59, 0712 31, 0712 32, 0712 33, 0712 39, 2003 10, 2003 90 and 2005 99 80.
- (d) products originating in the prefectures Gunma, Ibaraki, Tochigi, Miyagi, Saitama, Tokyo, Chiba, Kanagawa or Iwate:
- tea and processed products thereof falling within CN codes 0902, 2101 20 and 2202 90 10,
 - mushrooms and processed products thereof falling within CN codes 0709 51, 0709 59, 0710 80 61, 0710 80 69, 0711 51 00, 0711 59, 0712 31, 0712 32, 0712 33, 0712 39, 2003 10, 2003 90 and 2005 99 80,
 - fish and fishery products falling within CN codes 0302, 0303, 0304, 0305, 0306, 0307, 0308, 1504 10, 1504 20, 1604 and 1605 with the exception of scallops falling within CN codes 0307 21, 0307 29 and 1605 52 00,
 - rice and processed products thereof falling within CN codes 1006, 1102 90 50, 1103 19 50, 1103 20 50, 1104 19 91, 1104 19 99, 1104 29 17, 1104 29 30, 1104 29 59, 1104 29 89, 1104 30 90, 1901, 1904 10 30, 1904 20 95, 1904 90 10 and 1905 90,
 - soybeans and processed products thereof falling within CN codes 1201 90, 1208 10, 1507,
 - Adzuki beans falling within CN codes 0708 20, 0713 32 00 and processed products thereof falling under CN code such as 1106 10,
 - blueberries and processed products thereof falling within CN codes 0810 40 30, 0810 40 50, 0811 90 50, 0811 90 70, 0812 90 40, 0813 40 95,
 - ginkgo nut falling within CN code 0802 90 85 and processed products thereof falling within CN codes such as 0811 90 19, 0811 90 39, 0811 90 95, 0812 90 98, 0813 40 95,
 - Japanese apricot falling within CN codes 0809 40 05, and processed products thereof falling within CN codes such as 0811 90 19, 0811 90 39, 0811 90 95, 0812 90 98, 0813 40 95,
 - citrus fruit falling within CN code 0805, peel of citrus fruit falling within CN code 0814 00 00 and processed products thereof falling within CN codes such as 0811 90 19, 0811 90 39, 0811 90 95, 0812 90 25, 0812 90 98, 0813 40 95,
 - Japanese persimmon falling within CN code 0810 70 00 and processed products thereof falling within CN codes such as 0811 90 19, 0811 90 39, 0811 90 95, 0812 90 98, 0813 40 95,
 - pomegranate falling within CN code 0810 90 75 and processed products thereof falling within CN codes such as 0811 90 19, 0811 90 39, 0811 90 95, 0812 90 98, 0813 40 95,

- chocolate vine (*Akebia quinata*) and processed products thereof falling within CN codes 0810 90 75, 0811 90 19, 0811 90 39, 0811 90 95, 0812 90 98 and 0813 40 95,
- chestnuts falling within CN codes 0802 41 00 and 0802 42 00 and processed products thereof falling within CN codes such as 0811 90 19, 0811 90 39, 0811 90 95, 0812 90 98, 0813 40 95,
- walnuts falling within CN codes 0802 31 00 and 0802 32 00 and processed products thereof falling within CN codes such as 0811 90 19, 0811 90 39, 0811 90 95, 0812 90 98, 0813 40 95,
- Ashitaba (*Angelica keiskei*) and processed products thereof falling within CN codes 0709 99, 0710 80, 0711 90 and 0712 90,
- giant butterbur (fuki), Japanese butterbur scape (*Petasites japonicus*) and processed products thereof falling within CN codes 0709 99, 0710 80, 0711 90 and 0712 90,
- Japanese ginger (Myoga) falling within CN codes 0709 99, 0710 80, 0711 90, 0712 90 and processed products thereof such as those falling within CN codes 2008 99 49, 2008 99 67,
- edible parts of *Aralia* sp. and processed products thereof falling within CN codes 0709 99, 0710 80, 0711 90 and 0712 90,
- bamboo shoot (*Phyllostacys pubescens*) and processed products thereof falling within CN codes 0709 99, 0710 80, 0711 90, 0712 90, 2004 90 and 2005 91,
- bracken (*Pteridium aquilinum*) and processed products thereof falling within CN codes 0709 99, 0710 80, 0711 90 and 0712 90,
- edible parts of Japanese horseradish or wasabi (*Wasabia japonica*) and processed products thereof falling within CN codes 0709 99, 0710 80, 0711 90, 0712 90 and 0910 99,
- Japanese parsley (*Oenanthe javanica*) and processed products thereof falling within CN codes 0709 99, 0710 80, 0711 90 and 0712 90,
- Japanese pepper (*Zanthoxylum piperitum*) falling within CN code 0910 99,
- Japanese royal fern (*Osmunda japonica*) and processed products thereof falling within CN codes 0709 99, 0710 80, 0711 90 and 0712 90,
- koshiabura (shoot of *Eleuterococcus sciadophylloides*) and processed products thereof falling within CN codes 0709 99, 0710 80, 0711 90 and 0712 90,
- momijigasa (*Parasenecio delphinifolius*) and processed products thereof falling within CN code 0709 99, 0710 80, 0711 90 and 0712 90,
- ostrich fern (*Matteuccia struthiopteris*) and processed products thereof falling within CN codes 0709 99, 0710 80, 0711 90 and 0712 90,
- plantain lily (*Hosta Montana*) and processed products thereof falling within CN codes 0709 99, 0710 80, 0711 90 and 0712 90,
- uwabamisou (*Elatostoma umbellatum* var. *majus*) and processed products thereof falling within CN codes 0709 99, 0710 80, 0711 90 and 0712 90,
- victory onion (*Allium victorialis* subsp. *Platyphyllum*) and processed products thereof falling within CN codes 0703 10, 0710 80, 0711 90, 0712 20 and 0712 90,
- thistle (*Cirsium japonicum*) and processed products thereof falling within CN codes 0709 99, 0710 80, 0711 90 and 0712 90,
- yobusumaso (Honma) (*Cacalia hastata* ssp. *orientalis*) and processed products thereof falling within CN codes 0709 99, 0710 80, 0711 90 and 0712 90,

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- *Synurus pungens* (Oyamabokuchi) and processed products thereof falling within CN codes 0709 99, 0710 80, 0711 90 and 0712 90,
 - field horsetail (*Equisetum arvense*) and processed products thereof falling within CN codes 0709 99, 0710 80, 0711 90 and 0712 90,
 - *Actinidia polygama* (silver vine) and processed products thereof falling within CN codes 0810 90 75, 0811 90 19, 0811 90 39, 0811 90 95, 0812 90 98 and 0813 40 95,
 - fresh bovine meat falling within CN codes 0201, 0202, 0206 10, 0206 21 00, 0206 22 00, 0206 29, 0504 and 1502,
 - buckwheat and processed products thereof falling within CN codes 1008 10 00, 1102 90 90, 1103 19 90, 1103 20 90, 1104 19 99, 1104 29 17, 1104 29 30, 1104 29 59, 1104 29 89, 1104 30 90, 1901, 1904 10 90, 1904 20 99, 1904 90 80 and 1905 90,
 - lotus root and processed products thereof falling within CN codes such as 0709 99, 0711 90, 0712 90 and 1211 90,
 - threeleaf arrowroot and processed products thereof falling within CN codes such as 0714 90.
- (e) compound products containing more than 50 % of the products referred to in the headings (a), (b), (c), and (d) of this Annex.'
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