

COMMISSION IMPLEMENTING REGULATION (EU) No 1371/2011

of 21 December 2011

amending Implementing Regulation (EU) No 961/2011 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

(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 such as milk and spinach 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 961/2011⁽²⁾ was adopted.
- (3) The Japanese authorities monitor the presence of radioactivity in feed and food and it can be observed from the reported analytical results that certain feed and food in prefectures close to the Fukushima nuclear power station continue to contain levels of radioactivity above the maximum levels. It is therefore appropriate to extend the date of applicability of the measures by three additional months.
- (4) A significant number of samples taken by the Japanese authorities from feed and food produced in the Nagano prefecture show that the production of feed and food in that prefecture is only to a very limited extent affected by the accident at the Fukushima nuclear power station as only one sample of mushrooms of more than 1 800 samples of feed and food from Nagano had non-compliant levels of radioactivity. In particular, nearly all samples had non-detectable levels of radioactivity and only in few samples significant levels of radioactivity were detected. Therefore, it is appropriate to remove

that prefecture from the zone, where a testing of all feed and food originating from those prefectures is required before export to the Union.

- (5) The analytical results of import controls performed by the competent authorities of the Member States are so far very favourable and indicate that the control measures imposed on feed and food for export to the EU are correctly and efficiently applied by the Japanese authorities. Therefore, it is appropriate to consider at the next review of the measures a reduction of the frequency of import controls.
- (6) Given that the half-life of iodine-131 is short (about 8 days) and that no new releases of iodine-131 to the environment have been recently reported, the presence of iodine-131 is no longer observed in feed and food or the environment. As the possibility of new releases of iodine-131 are very minimal, it is appropriate to no longer require the analysis for the presence of iodine-131.
- (7) To facilitate the issuance of attestations, it is appropriate to authorise the competent authority to appoint an instance which is authorised to sign in certain cases the attestations under the authority and supervision of the competent authority of Japan.
- (8) It is therefore appropriate to amend Implementing Regulation (EU) No 961/2011 accordingly.
- (9) 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

Amending provisions

Regulation (EU) No 961/2011 is amended as follows:

- (1) in Article 2, paragraph 3 is replaced by the following:
 - ‘3. Each consignment of products referred to in Article 1 shall be accompanied by a declaration, attesting that:
 - (a) the product has been harvested and/or processed before 11 March 2011; or
 - (b) the product originates in and is consigned from a prefecture other than Fukushima, Gunma, Ibaraki, Tochigi, Miyagi, Yamanashi, Saitama, Tokyo, Chiba, Kanagawa and Shizuoka; or

⁽¹⁾ OJ L 31, 1.2.2002, p. 1.

⁽²⁾ OJ L 252, 28.9.2011, p. 10.

- (c) the product is consigned from Fukushima, Gunma, Ibaraki, Tochigi, Miyagi, Yamanashi, Saitama, Tokyo, Chiba, Kanagawa and Shizuoka prefectures, but does not originate in one of those prefectures and has not been exposed to radioactivity during transiting; or
- (d) where a product originates in Fukushima, Gunma, Ibaraki, Tochigi, Miyagi, Yamanashi, Saitama, Tokyo, Chiba, Kanagawa and Shizuoka prefectures, the product does not contain levels of radionuclides caesium-134 and caesium-137 above the maximum levels provided for in Annex II to this Regulation.;
- (2) in Article 2, paragraph 5 is replaced by the following:
- '5. The declaration referred to in paragraph 3 shall be drawn up in accordance with the model set out in Annex I. For the products referred to in points (a), (b) or (c) of paragraph 3, the declaration shall be signed by an authorised representative of the competent authority of Japan or by an authorised representative of an instance authorised by the competent authority of Japan under the authority and supervision of the competent authority. For the products referred to in point (d) of paragraph 3, the declaration shall be signed by an authorised representative of the competent authority of Japan and shall be accompanied by an analytical report containing the results of sampling and analysis.;
- (3) in Article 5, paragraph 1 is replaced by the following:
- '1. The competent authorities of the border inspection post or designated point of entry shall carry out:
- (a) documentary checks on all consignments of products referred to in Article 1; and
- (b) identity and physical checks, including laboratory analysis on the presence of caesium-134 and caesium-137, on at least:
- 10 % of the consignments of products referred to in Article 2(3)(d), and
- 20 % of the consignments of products referred to in Article 2(3)(b) and (c).;
- (4) in Article 10, the second paragraph, the date of '31 December 2011' is replaced by '31 March 2012'.
- (5) Annex I is replaced by the text set out in the Annex to this Regulation.

Article 2

Entry into force

This Regulation shall enter into force on the third day following 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, 21 December 2011.

For the Commission
The President
José Manuel BARROSO

ANNEX

ANNEX I

Declaration for the import into the European Union of

..... (*)

Batch identification code Declaration number

According to the provisions of the Commission Implementing Regulation (EU) No 961/2011 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 the

.....
 (authorised representative referred to in Article 2(5))

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)

has been harvested and/or processed before 11 March 2011.

is originating in and consigned from a prefecture other than Fukushima, Gunma, Ibaraki, Tochigi, Miyagi, Yamanashi, Saitama, Tokyo, Chiba, Kanagawa and Shizuoka.

is consigned from the prefectures Fukushima, Gunma, Ibaraki, Tochigi, Miyagi, Yamanashi, Saitama, Tokyo, Chiba, Kanagawa and Shizuoka, but not originating in one of these prefectures and has not been exposed to radioactivity during transiting.

is originating in the prefectures Fukushima, Gunma, Ibaraki, Tochigi, Miyagi, Yamanashi, Saitama, Tokyo, Chiba, Kanagawa and Shizuoka 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, and the analytical results are in compliance with the maximum levels referred to in Article 2(3). The analytical report is attached.

Done at on

Stamp and signature of
authorised representative referred to in Article 2(5)

(*) Product and country of origin.

Part to be completed by the competent authority at the BIP or DPE

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

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

.....
Date Stamp Signature'
