

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****(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 297/2011 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.
- (3) Regulation (EU) No 297/2011 has been amended at several occasions to take into account the development of the situation. These amendments concerned the adoption of maximum levels of radioactivity to be applied for feed and food originating from Japan, addition of prefectures to the zone for which specific restrictions apply after contamination in these prefectures was found at levels above the maximum levels and removing prefectures from the zone with restrictions in

case extensive monitoring has provided evidence that these prefectures were not affected to a significant extent by radioactive contamination.

- (4) Since mid July 2011, the Commission was informed by the Japanese authorities of findings of high levels of caesium in beef from cattle grown in different prefectures in Japan. As the import of beef from Japan into the EU is not allowed for animal and public health reasons other than radioactivity, these findings do not affect the European consumer. Also recently, new food products have been found to contain levels of radioactivity above the maximum levels. These findings and the fact that new/other agricultural/horticultural crops are grown and harvested in the contaminated zone provide evidence that it is appropriate to maintain the current measures after 30 September 2011. It is therefore appropriate to continue to implement the present Regulation until 31 December 2011, instead of 30 September 2011 as initially foreseen. The principle of a monthly review of the implementation of the Regulation is maintained.
- (5) Given that Regulation (EU) No 297/2011 has been amended several times in a short period of time it is appropriate to replace Regulation (EU) No 297/2011 by a new Regulation.
- (6) 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 feedstuffs and foodstuffs within the meaning of Article 1 (2) of Regulation (Euratom) No 3954/87⁽³⁾ originating in or consigned from Japan, with the exclusion of products which left Japan before 28 March 2011 and of products which have been harvested and/or processed before 11 March 2011.

*Article 2***Attestation**

1. All consignments of products referred to in Article 1 shall be subject to the conditions laid down in this Regulation.

⁽¹⁾ OJ L 31, 1.2.2002, p. 1.

⁽²⁾ OJ L 80, 26.3.2011, p. 5.

⁽³⁾ OJ L 371, 30.12.1987, p. 11.

2. Consignments of products referred to in Article 1 falling outside the scope of Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community for third countries ⁽¹⁾ shall be introduced into the Union through a designated point of entry within the meaning of Article 3 (b) of Commission Regulation (EC) No 669/2009 (hereinafter "designated point of entry") ⁽²⁾.

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, Nagano, Yamanashi, Saitama, Tokyo, Chiba, Kanagawa and Shizuoka, or
- (c) the product is consigned from Fukushima, Gunma, Ibaraki, Tochigi, Miyagi, Nagano, 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, Nagano, Yamanashi, Saitama, Tokyo, Chiba, Kanagawa and Shizuoka prefectures, the product does not contain levels of radionuclides iodine-131, caesium-134 and caesium-137 above the maximum levels provided for in Annex II to this Regulation.

4. Point (d) 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.

5. The declaration referred to in paragraph 3 shall be drawn up in accordance with the model set out in Annex I. It shall be signed by an authorised representative of the competent authority of Japan. For the products referred to in point (d) of paragraph 3, the declaration shall be accompanied by an analytical report containing the results of sampling and analysis.

Article 3

Identification

Each consignment of the 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 2(3), on the analytical report referred to in Article 2(5), on the sanitary certificate and on any commercial documents accompanying the consignment.

⁽¹⁾ OJ L 24, 30.1.1998, p. 9.

⁽²⁾ OJ L 194, 25.7.2009, p. 11.

Article 4

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 two working days prior to the physical arrival of the consignment, to the competent authorities at the Border Inspection Post or at the designated point of entry.

Article 5

Official controls

1. The competent authorities of the border inspection post or designated point of entry shall carry out:

- (a) documentary and identity checks on all consignments of products referred to in Article 1, and
- (b) physical checks, including laboratory analysis on the presence of iodine-131, 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).

2. Consignments shall be kept under official control, for a maximum of 5 working days, pending the availability of the results of the laboratory analysis.

3. The release for free circulation of consignments shall be subject to the presentation by the feed and food business operator or its representative to the customs authorities of the declaration referred to Article 2(3), duly endorsed by the competent authority at the border inspection post or designated point of entry, giving evidence that the official controls referred to in paragraph 1 have been carried out and that the results from physical checks, where such checks were carried out, have been favourable.

Article 6

Costs

All costs resulting from the official controls referred to in Article 5(1) and 5(2) and any measures taken following non-compliance, shall be borne by the feed and food business operator.

*Article 7***Non-compliant products**

Feed and food originating in or consigned from Japan which do not comply with the maximum levels referred to in Annex II shall not be placed on the market. Such non-compliant feed and food shall be safely disposed of or returned to the country of origin.

*Article 8***Reports**

Member States shall inform the Commission monthly through the Rapid Alert System for Food and Feed (RASFF) and the European Union's Urgent Radiological Information Exchange system (ECURIE) of all analytical results obtained.

*Article 9***Repeal**

Regulation (EU) No 297/2011 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation.

*Article 10***Entry into force and period of application**

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

It shall apply from the date of entry into force until 31 December 2011. The Regulation will be reviewed monthly taking into account the development of the contamination situation.

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

Done at Brussels, 27 September 2011.

For the Commission

The President

José Manuel BARROSO

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

.....

..... (competent authority 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, Nagano, Yamanashi, Saitama, Tokyo, Chiba, Kanagawa and Shizuoka.

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

☐ is originating in the prefectures Fukushima, Gunma, Ibaraki, Tochigi, Miyagi, Nagano, 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, iodine-131, 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 of competent authority referred to in Article 2(5)

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

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

- ☐ 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

ANNEX II

Maximum levels for foodstuffs ⁽¹⁾ (Bq/kg)

	Foods for infants and young children	Milk and dairy products	Other foodstuffs, except liquid foodstuffs	Liquid foodstuffs
Sum of Isotopes of strontium, notably Sr-90	75	125	750	125
Sum of Isotopes of iodine, notably I-131	100 ⁽¹⁾	300 ⁽¹⁾	2 000	300 ⁽¹⁾
Sum of Alpha-emitting isotopes of plutonium and trans-plutonium elements, notably Pu-239, Am-241	1	1 ⁽¹⁾	10 ⁽¹⁾	1 ⁽¹⁾
Sum of all other nuclides of half-life greater than 10 days, notably Cs-134 and Cs-137, except C-14 and H-3	200 ⁽¹⁾	200 ⁽¹⁾	500 ⁽¹⁾	200 ⁽¹⁾

⁽¹⁾ In order to ensure consistency with action levels currently applied in Japan, these values replace on a provisional basis the values laid down in Council Regulation (Euratom) 3954/87.

Maximum levels for feedingstuffs ⁽²⁾ (Bq/kg)

	Feedingstuffs
Sum of Cs-134 and Cs-137	500 ⁽¹⁾
Sum of Isotopes of iodine, notably I-131	2 000 ⁽²⁾

⁽¹⁾ In order to ensure consistency with action levels currently applied in Japan, this value replaces on a provisional basis the value laid down in Commission Regulation (Euratom) No 770/90.

⁽²⁾ This value is laid down on a provisional basis and taken to be the same as for foodstuffs, pending an assessment of transfer factors of iodine from feedingstuffs to food products.

⁽¹⁾ The level applicable to concentrated or dried products is calculated on the basis of the reconstituted product as ready for consumption.

⁽²⁾ Maximum level is relative to a feed with a moisture content of 12 %.