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►**B** **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

(Text with EEA relevance)

(OJ L 80, 26.3.2011, p. 5)

Amended by:

		Official Journal		
		No	page	date
►**M1**	Commission Implementing Regulation (EU) No 351/2011 of 11 April 2011	L 97	20	12.4.2011

Corrected by:

►**C1** Corrigendum, OJ L 98, 13.4.2011, p. 16 (351/2011)

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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

(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 Community 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 within the Union and it is therefore appropriate as a precautionary measure to urgently take measures at Union level to ensure the safety of the feed and food, including fish and fishery products, originating in or consigned from Japan. As the accident is not yet under control, it is at this stage appropriate that the required testing before export would apply to feed and food originating from the affected prefectures with a buffer zone and a random testing of feed and food at import originating from the whole territory of Japan.

(3) Maximum levels have been established by 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 ([2]), Commission Regulation (Euratom) No 944/89 of 12 April 1989 laying down maximum permitted levels of radioactive contamination in minor foodstuffs following a nuclear accident or any other case of radiological emergency ([3]) and Commission Regulation

([1]) OJ L 31, 1.2.2002, p. 1.
([2]) OJ L 371, 30.12.1987, p. 11.
([3]) OJ L 101, 13.4.1989, p. 17.

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(Euratom) No 770/90 of 29 March 1990 laying down maximum permitted levels of radioactive contamination of feedingstuffs following a nuclear accident or any other case of radiological emergency ([1]).

(4) These maximum levels can be rendered applicable after the Commission is informed of a nuclear accident substantiating that the maximum permitted levels of radioactive contamination of foodstuffs and feedingstuffs are likely to be reached or have been reached pursuant to Council Decision 87/600/Euratom of 14 December 1987 on Community arrangements for the early exchange of information in the event of radiological emergency ([2]) or under the International Atomic Energy Agency (IAEA) Convention on early notification of a nuclear accident of 26 September 1986. In the meantime it is appropriate to use these pre–established maximum levels as reference values to judge the acceptability to place feed and food on the market.

(5) The Japanese authorities have informed the Commission services that appropriate testing is carried out on food products from the affected region exported from Japan.

(6) In addition to the testing carried out by the Japanese authorities, it is appropriate to foresee random controls on such imports.

(7) It is appropriate that Member States inform the Commission of all analytical results through the Rapid Alert System for Food and Feed (RASFF) and the European Union's Urgent Radiological Information Exchange system (ECURIE). The measures will be reviewed on the basis of these analytical results.

(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

Scope

This Regulation shall apply to feedstuffs and foodstuffs within the meaning of Article 1 (2) of Regulation 3954/87 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 the products referred to in Article 1 shall be subject to the conditions laid down in this Regulation.

2. Consignments of the 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

([1]) OJ L 83, 30.3.1990, p. 78.
([2]) OJ L 371, 30.12.1987, p. 76.

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veterinary checks on products entering the Community for third countries ([1]) shall be introduced into the EU through a designated point of entry (hereinafter 'DPE') within the meaning of Article 3 (b) of Commission Regulation (EC) No 669/2009 of 24 July 2009 implementing Regulation (EC) 882/2004 of the European Parliament and of the Council as regards the increased level of official controls on imports of certain feed and food of non-animal origin and amending Decision 2006/504/EC ([2]).

3. Each consignment of the products referred to in Article 1 shall be accompanied by a declaration, attesting that

— the product has been harvested and/or processed before 11 March 2011, or

— the product is originating from a prefecture other than Fukushima, Gunma, Ibaraki, Tochigi, Miyagi, Yamagata, Niigata, Nagano, Yamanashi, Saitama, Tokyo and Chiba, or

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— in case the product is originating in or consigned from the prefectures Fukushima, Gunma, Ibaraki, Tochigi, Miyagi, Yamagata, Niigata, Nagano, Yamanashi, Saitama, Tokyo and Chiba, the product does not contain levels of the radionuclides iodine-131, caesium-134 and caesium-137 above the maximum levels provided for in Annex II to this Regulation. This provision applies also to products originating in the coastal waters of these prefectures, irrespective of where such products are landed.

4. The model of the declaration referred to in paragraph 3 is set out in the Annex I. The declaration shall be signed by an authorised representative of the Japanese competent authorities and shall for the products falling under paragraph 3, third indent be accompanied by an analytical report.

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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, on the analytical report containing the results of sampling and analysis, sanitary certificate and on any commercial documents accompanying the consignment.

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 (hereinafter 'BIP') or at the DPE.

([1]) OJ L 24, 30.1.1998, p. 9.
([2]) OJ L 194, 25.7.2009, p. 11.

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Article 5

Official controls

1. The competent authorities of the BIP or DPE shall carry out documentary and identity checks on all consignments of products referred to in Article 1, and physical checks, including laboratory analysis, on the presence of iodine-131, caesium-134 and caesium-137, on at least 10% of such consignments of the products referred to in Article 2 (3), 3rd indent and on at least 20 % of such consignments of the products referred to in Article 2(3) 2nd indent.

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 their representative to the customs authorities of the declaration referred to in Annex, duly endorsed by the competent authority at the BIP or DPE, 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.

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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.

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Article 8

Reports

Member States shall inform the Commission regularly 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

Entry into force and period of application

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

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It shall apply from the date of entry into force until 30 June 2011. The Regulation will be reviewed monthly on the basis of the analytical results obtained.

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

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ANNEX I

Declaration for the import into the European Union of

..... (*)

Consignment Code ..... **Declaration Number** .....

According to the provisions of the 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 the

.....

..... (competent authority referred to in Article 2(4))

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 or consigned from a prefecture other than Fukushima, Gunma, Ibaraki, Tochigi, Miyagi, Yamagata, Niigata, Nagano, Yamanashi, Saitama, Tokyo and Chiba

☐ is originating in or consigned from the prefectures Fukushima, Gunma, Ibaraki, Tochigi, Miyagi, Yamagata, Niigata, Nagano, Yamanashi, Saitama, Tokyo and Chiba 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, cesium-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(4)

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

☐ The consignment has been accepted to be presented for release for free circulation by the custom authorities in the European Union

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

.....

(Competent authority, Member State)

.....

Date Stamp Signature

(*) Product and country of origin.

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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) No 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 %.