

WENRA Handbook on Reactor Safety

Part 1: European Legal Frame of
„Nuclear Safety“

Version 2; September 2014

European Legal Frame of „Nuclear Safety“

Primary Legislation

TEU TREATY ON EUROPEAN UNION

TEU does not contain concrete regulation on nuclear safety

TFEU TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION

TFEU does not contain concrete regulation on nuclear safety

Secondary legislation which is based on TFEU may have connecting points with nuclear safety

TAEC TREATY ESTABLISHING THE EUROPEAN ATOMIC ENERGY COMMUNITY (EURATOM-Treaty)

TAEC contains numerous regulations with regard to nuclear safety

Secondary Legislation

• Regulations

- **REGULATION No 647/2010** of the Council of 13 July 2010 on financial assistance of the Union with respect to the decommissioning of Units 1 to 4 of the Kozloduy Nuclear Power Plant in Bulgaria (Kozloduy Programme)
- **REGULATION No 1048/2009** of 23 October 2009 amending Regulation (EC) No 733/2008 on the conditions governing imports of agricultural products originating in third countries following the accident at the Chernobyl nuclear power station
- **REGULATION No 733/2008** of the Council of 15 July 2008 on the conditions governing imports of agricultural products originating in third countries following the accident at the Chernobyl nuclear power station
- **REGULATION No 1717/2006** of the European Parliament and of the Council of 15 November 2006 on establishing an Instrument for Stability
- **REGULATION No 300/2007/Euratom** of the Council of 19 February 2007 on establishing an Instrument for Nuclear Safety Cooperation
- **REGULATION No 302/2005/Euratom** of the Commission of 8 February 2005 on the application of Euratom safeguards
- **REGULATION No 1013/2006(EC)** of the European Parliament and of the Council of 14 June 2006 on shipments of waste

• Directives

- **DIRECTIVE No 70/2011/Euratom** of the Council of 19 July 2011 on establishing a Community framework for the responsible and safe management of spent fuel and radioactive waste
- **DIRECTIVE No 71/2009/Euratom** of the Council of 25 June 2009 on establishing a Community framework for the nuclear safety of nuclear installations
- **DIRECTIVE No 87/2014/Euratom** of the Council of 8 July 2014 amending Directive No 71/2009/Euratom establishing a Community framework for the nuclear safety of nuclear installations
- **DIRECTIVE No 117/2006/Euratom** of the Council of 20 November 2006 on the supervision and control of shipments of radioactive waste and spent fuel
- **DIRECTIVE No 122/2003/Euratom** of the Council of 22 December 2003 on the control of high-activity sealed radioactive sources and orphan sources
- **DIRECTIVE No 29/1996/Euratom** of the Council of 13 May 1996 on laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation
- **DIRECTIVE No 59/2013/Euratom** of the Council of 5 December 2013 on laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom

• Decisions

- **DECISION No 530/2007/Euratom** of the Commission of 17 July 2007 on establishing the European High Level Group on Nuclear Safety and Waste Management
- **DECISION No 513/2007/Euratom** of the Council of 10 July 2007 on approving the accession of the European Atomic Energy Community to the amended Convention on the Physical Protection of Nuclear Material and Nuclear Facilities
- **DECISION No 908/2006/EG,Euratom** of the Council of 4 December 2006 on the first instalment of the third Community contribution to the European Bank for Reconstruction and Development for the Chernobyl Shelter Fund
- **DECISION No 845/2005/Euratom** of the Commission of 25 November 2005 concerning the accession of the European Atomic Energy Community to the Convention on Assistance in the case of a Nuclear Accident or Radiological Emergency
- **DECISION No 844/2005/Euratom** of the Commission of 25 November 2005 concerning the accession of the European Atomic Energy Community to the Convention on Early Notification of a Nuclear Accident
- **DECISION No 510/2005/Euratom** of the Commission of 14 June 2005 concerning the accession of the European Atomic Energy Community to the 'Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management'
- **DECISION No 924/1999/Euratom** of the Commission of 23 July 1999 on the conclusion of two cooperation agreements between the European Atomic Energy Community and the Cabinet of Ministers of Ukraine in the field of nuclear safety and in the field of controlled nuclear fusion

• Recommendations and Statements

International Conventions

(The EU is bound by the international agreements which it concludes. These have priority over secondary law, but, with the exception of compelling international law, rank below primary law.)

- **Convention on Nuclear Safety**
- **Convention on Physical Protection of Nuclear Material**
- **Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency**
- **Convention on Early Notification of a Nuclear Accident**
- **Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management**

Please consider that the overview is not exhausting.

Primary Legislation

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TAEC TREATY ESTABLISHING THE EUROPEAN ATOMIC ENERGY COMMUNITY (EURATOM-Treaty)

TAEC contains numerous
regulations with regard to nuclear
safety

Only the
"Treaty establishing the European Atomic Community"
is considered as text.



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Note to the reader (see page 2 of the cover)

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NOTE TO THE READER

This publication contains the consolidated version of the Treaty establishing the European Atomic Energy Community, together with the annexes and protocols thereto, incorporating the amendments made by the Treaty of Lisbon, signed on 13 December 2007 and which entered into force on 1 December 2009.

In addition, this publication contains an amendment effected by the Protocol amending the Protocol on Transitional Provisions annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community.

This publication has been produced for documentary purposes and does not involve the responsibility of the institutions of the European Union.

CONSOLIDATED VERSION
OF THE TREATY ESTABLISHING THE
EUROPEAN ATOMIC ENERGY COMMUNITY

(2012/C 327/01)

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PREAMBLE

HIS MAJESTY THE KING OF THE BELGIANS, THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY, THE PRESIDENT OF THE FRENCH REPUBLIC, THE PRESIDENT OF THE ITALIAN REPUBLIC, HER ROYAL HIGHNESS THE GRAND DUCHESS OF LUXEMBOURG, HER MAJESTY THE QUEEN OF THE NETHERLANDS ⁽¹⁾,

RECOGNISING that nuclear energy represents an essential resource for the development and invigoration of industry and will permit the advancement of the cause of peace,

CONVINCED that only a joint effort undertaken without delay can offer the prospect of achievements commensurate with the creative capacities of their countries,

RESOLVED to create the conditions necessary for the development of a powerful nuclear industry which will provide extensive energy resources, lead to the modernisation of technical processes and contribute, through its many other applications, to the prosperity of their peoples,

ANXIOUS to create the conditions of safety necessary to eliminate hazards to the life and health of the public,

DESIRING to associate other countries with their work and to cooperate with international organisations concerned with the peaceful development of atomic energy,

HAVE DECIDED to create a EUROPEAN ATOMIC ENERGY COMMUNITY (EURATOM) and to this end have designated as their Plenipotentiaries:

(List of plenipotentiaries not reproduced)

WHO, having exchanged their full powers, found in good and due form, have agreed as follows:

TITLE I

THE TASKS OF THE COMMUNITY

Article 1

By this Treaty the HIGH CONTRACTING PARTIES establish among themselves a EUROPEAN ATOMIC ENERGY COMMUNITY (EURATOM).

⁽¹⁾ The Republic of Bulgaria, the Czech Republic, the Kingdom of Denmark, the Republic of Estonia, Ireland, the Hellenic Republic, the Kingdom of Spain, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden and United Kingdom of Great Britain and Northern Ireland have since become members of the European Atomic Energy Community.

It shall be the task of the Community to contribute to the raising of the standard of living in the Member States and to the development of relations with the other countries by creating the conditions necessary for the speedy establishment and growth of nuclear industries.

Article 2

In order to perform its task, the Community shall, as provided in this Treaty:

- (a) promote research and ensure the dissemination of technical information;
- (b) establish uniform safety standards to protect the health of workers and of the general public and ensure that they are applied;
- (c) facilitate investment and ensure, particularly by encouraging ventures on the part of undertakings, the establishment of the basic installations necessary for the development of nuclear energy in the Community;
- (d) ensure that all users in the Community receive a regular and equitable supply of ores and nuclear fuels;
- (e) make certain, by appropriate supervision, that nuclear materials are not diverted to purposes other than those for which they are intended;
- (f) exercise the right of ownership conferred upon it with respect to special fissile materials;
- (g) ensure wide commercial outlets and access to the best technical facilities by the creation of a common market in specialised materials and equipment, by the free movement of capital for investment in the field of nuclear energy and by freedom of employment for specialists within the Community;
- (h) establish with other countries and international organisations such relations as will foster progress in the peaceful uses of nuclear energy.

Article 3

(repealed)

TITLE II

PROVISIONS FOR THE ENCOURAGEMENT OF PROGRESS IN THE FIELD OF NUCLEAR ENERGY

CHAPTER 1

Promotion of research*Article 4*

1. The Commission shall be responsible for promoting and facilitating nuclear research in the Member States and for complementing it by carrying out a Community research and training programme.

2. The activity of the Commission in this respect shall be carried out within the fields listed in Annex I to this Treaty.

This list may be amended by the Council, acting by a qualified majority on a proposal from the Commission. The latter shall consult the Scientific and Technical Committee established under Article 134.

Article 5

For purposes of coordinating and complementing research undertaken in Member States, the Commission shall, either by a specific request addressed to a given recipient and conveyed to the government concerned, or by a general published request, call upon Member States, persons or undertakings to communicate to it their programmes relating to the research which it specifies in the request.

After giving those concerned full opportunity to comment, the Commission may deliver a reasoned opinion on each of the programmes communicated to it. The Commission shall deliver such an opinion if the State, person or undertaking which has communicated the programme so requests.

By such opinions the Commission shall discourage unnecessary duplication and shall direct research towards sectors which are insufficiently explored. The Commission may not publish these programmes without the consent of the State, person or undertaking which has communicated them.

The Commission shall publish at regular intervals a list of those sectors of nuclear research which it considers to be insufficiently explored.

The Commission may bring together representatives of public and private research centres as well as any experts engaged in research in the same or related fields for mutual consultation and exchanges of information.

Article 6

To encourage the carrying out of research programmes communicated to it the Commission may:

- (a) provide financial assistance within the framework of research contracts, without, however, offering subsidies;
- (b) supply, either free of charge or against payment, for carrying out such programmes, any source materials or special fissile materials which it has available;
- (c) place installations, equipment or expert assistance at the disposal of Member States, persons or undertakings, either free of charge or against payment;
- (d) promote joint financing by the Member States, persons or undertakings concerned.

Article 7

Community research and training programmes shall be determined by the Council, acting unanimously on a proposal from the Commission, which shall consult the Scientific and Technical Committee.

These programmes shall be drawn up for a period of not more than five years.

The funds required for carrying out these programmes shall be included each year in the research and investment budget of the Community.

The Commission shall ensure that these programmes are carried out and shall submit an annual report thereon to the Council.

The Commission shall keep the Economic and Social Committee informed of the broad outlines of Community research and training programmes.

Article 8

1. After consulting the Scientific and Technical Committee, the Commission shall establish a Joint Nuclear Research Centre.

This Centre shall ensure that the research programmes and other tasks assigned to it by the Commission are carried out.

It shall also ensure that a uniform nuclear terminology and a standard system of measurements are established.

It shall set up a central bureau for nuclear measurements.

2. The activities of the Centre may, for geographical or functional reasons, be carried out in separate establishments.

Article 9

1. After obtaining the opinion of the Economic and Social Committee the Commission may, within the framework of the Joint Nuclear Research Centre, set up schools for the training of specialists, particularly in the fields of prospecting for minerals, the production of high purity nuclear materials, the processing of irradiated fuels, nuclear engineering, health and safety and the production and use of radioisotopes.

The Commission shall determine the details of such training.

2. An institution of university status shall be established; the way in which it will function shall be determined by the Council, acting by a qualified majority on a proposal from the Commission.

Article 10

The Commission may, by contract, entrust the carrying out of certain parts of the Community research programme to Member States, persons or undertakings, or to third countries, international organisations or nationals of third countries.

Article 11

The Commission shall publish the research programmes referred to in Articles 7, 8 and 10, and also regular progress reports on their implementation.

CHAPTER 2

Dissemination of information

Section 1

Information over which the Community has power of disposal

Article 12

Member States, persons or undertakings shall have the right, on application to the Commission, to obtain non exclusive licences under patents, provisionally protected patent rights, utility models or patent applications owned by the Community, where they are able to make effective use of the inventions covered thereby.

Under the same conditions, the Commission shall grant sublicences under patents, provisionally protected patent rights, utility models or patent applications, where the Community holds contractual licences conferring power to do so.

The Commission shall grant such licences or sublicences on terms to be agreed with the licensees and shall furnish all the information required for their use. These terms shall relate in particular to suitable remuneration and, where appropriate, to the right of the licensee to grant sublicences to third parties and to the obligation to treat the information as a trade secret.

Failing agreement on the terms referred to in the third paragraph, the licensees may bring the matter before the Court of Justice of the European Union so that appropriate terms may be fixed.

Article 13

The Commission shall communicate to Member States, persons and undertakings information acquired by the Community which is not covered by the provisions of Article 12, whether such information is derived from its own research programme or communicated to the Commission with authority to make free use of it.

The Commission may, however, make the disclosure of such information conditional on its being treated as confidential and not passed on to third parties.

The Commission may not disclose information which has been acquired subject to restrictions on its use or dissemination such as information known as classified information unless it ensures compliance with these restrictions.

Section 2

Other information

(a) Dissemination by amicable agreement

Article 14

The Commission shall endeavour, by amicable agreement, to secure both the communication of information which is of use to the Community in the attainment of its objectives and the granting of licences under patents, provisionally protected patent rights, utility models or patent applications covering such information.

Article 15

The Commission shall establish a procedure by which Member States, persons and undertakings may use it as an intermediary for exchanging provisional or final results of their research, insofar as these results have not been acquired by the Community under research contracts awarded by the Commission.

This procedure must be such as to ensure the confidential nature of the exchange. The results communicated may, however, be transmitted by the Commission to the Joint Nuclear Research Centre for documentation purposes; this shall not entail any right of use to which the communicating party has not agreed.

(b) Compulsory communication to the Commission

Article 16

1. As soon as an application for a patent or a utility model relating to a specifically nuclear subject is filed with a Member State, that State shall ask the applicant to agree that the contents of the application be communicated to the Commission forthwith.

If the applicant agrees, this communication shall be made within three months of the date of filing the application. If the applicant does not agree, the Member State shall, within the same period, notify the Commission of the existence of the application.

The Commission may require a Member State to communicate the contents of an application of whose existence it has been notified.

The Commission shall make any such request within two months of the date of notification. Any extension of this period shall entail a corresponding extension of the period referred to in the sixth subparagraph of this paragraph.

On receiving such a request from the Commission, the Member State shall again ask the applicant to agree to communication of the contents of the application. If the applicant agrees, communication shall be made forthwith.

If the applicant does not agree, the Member State shall nevertheless be required to make this communication to the Commission within 18 months of the date on which the application was filed.

2. Member States shall inform the Commission, within 18 months of the filing date, of the existence of any as yet unpublished application for a patent or utility model which seems to them, *prima facie*, to deal with a subject which, although not specifically nuclear, is directly connected with and essential to the development of nuclear energy in the Community.

If the Commission so requests, the contents of the application shall be communicated to it within two months.

3. In order that publication may take place as soon as possible, Member States shall reduce to a minimum the time taken to process applications for patents or utility models relating to subjects referred to in paragraphs 1 and 2 concerning which a request has been made by the Commission.

4. The Commission shall treat the abovementioned communications as confidential. They may only be made for documentation purposes. The Commission may, however, make use of the inventions communicated to it, either with the consent of the applicant or in accordance with Articles 17 to 23.

5. The provisions of this Article shall not apply when an agreement concluded with a third State or an international organisation precludes communication.

(c) Grant of licences by arbitration or under compulsory powers

Article 17

1. Failing amicable agreement, non exclusive licences may be granted either by arbitration or under compulsory powers in accordance with Articles 18 to 23:

(a) to the Community or to Joint Undertakings accorded this right under Article 48 in respect of patents, provisionally protected patent rights or utility models relating to inventions directly connected with nuclear research, where the granting of such licences is necessary for the continuance of their own research or indispensable to the operation of their installations.

If the Commission so requests, such licences shall include the right to authorise third parties to make use of the invention, where they are carrying out work for or orders placed by the Community or Joint Undertakings;

(b) to persons or undertakings which have applied to the Commission for them in respect of patents, provisionally protected patent rights or utility models relating to inventions directly connected with and essential to the development of nuclear energy in the Community, provided that all the following conditions are fulfilled:

- (i) at least four years have elapsed since the filing of the patent application, save in the case of an invention relating to a specifically nuclear subject;
- (ii) the requirements arising out of the development of nuclear energy, in the Commission's conception of such development, in the territory of a Member State where an invention is protected, are not being met with regard to that invention;
- (iii) the proprietor, having been called upon to meet such requirements either himself or through his licensees, has not complied with this request;
- (iv) the persons or undertakings applying for licences are in a position to meet such requirements effectively by making use of the invention.

Member States may not, in order to meet such requirements, take any coercive measures provided for in their national legislation which will limit the protection accorded to the invention, save at the prior request of the Commission.

2. A non exclusive licence may not be granted as provided for in paragraph 1 where the proprietor can establish the existence of legitimate reasons, in particular that he has not had sufficient time at his disposal.

3. The granting of a licence pursuant to paragraph 1 shall confer a right to full compensation, the amount of which shall be agreed between the proprietor of the patent, provisionally protected patent right or utility model and the licensee.

4. The provisions of this Article shall not affect those of the Paris Convention for the Protection of Industrial Property.

Article 18

An Arbitration Committee is hereby established for the purposes provided for in this Section. The Council shall appoint the members and lay down the Rules of Procedure of this Committee, acting on a proposal from the Court of Justice of the European Union.

An appeal, having suspensory effect, may be brought by the parties before the Court of Justice of the European Union against a decision of the Arbitration Committee within one month of notification thereof. The Court of Justice of the European Union shall confine its examination to the formal validity of the decision and to the interpretation of the provisions of this Treaty by the Arbitration Committee.

The final decisions of the Arbitration Committee shall have the force of *res judicata* between the parties concerned. They shall be enforceable as provided in Article 164.

Article 19

Where, failing amicable agreement, the Commission intends to secure the granting of licences in one of the cases provided for in Article 17, it shall give notice of its intention to the proprietor of the patent, provisionally protected patent right, utility model or patent application, and shall specify in such notice the name of the applicant for and the scope of the licence.

Article 20

The proprietor may, within one month of receipt of the notice referred to in Article 19, propose to the Commission and, where appropriate, to the applicant that they conclude a special agreement to refer the matter to the Arbitration Committee.

Should the Commission or the applicant refuse to enter into such an agreement, the Commission shall not require the Member State or its appropriate authorities to grant the licence or cause it to be granted.

If, when the matter is referred to it under a special agreement, the Arbitration Committee finds that the request from the Commission complies with the provisions of Article 17, it shall give a reasoned decision containing a grant of the licence to the applicant and laying down the terms of the licence and the remuneration therefor, to the extent that the parties have not reached agreement on these points.

Article 21

If the proprietor does not propose that the matter be referred to the Arbitration Committee, the Commission may call upon the Member State concerned or its appropriate authorities to grant the licence or cause it to be granted.

If, having heard the proprietor's case, the Member State, or its appropriate authorities, considers that the conditions of Article 17 have not been complied with, it shall notify the Commission of its refusal to grant the licence or to cause it to be granted.

If it refuses to grant the licence or to cause it to be granted, or if, within four months of the date of the request, no information is forthcoming with regard to the granting of the licence, the Commission shall have two months in which to bring the matter before the Court of Justice of the European Union.

The proprietor must be heard in the proceedings before the Court of Justice of the European Union.

If the judgment of the Court of Justice of the European Union establishes that the conditions of Article 17 have been complied with, the Member State concerned, or its appropriate authorities, shall take such measures as enforcement of that judgment may require.

Article 22

1. If the proprietor of the patent, provisionally protected patent right or utility model and the licensee fail to agree on the amount of compensation, the parties concerned may conclude a special agreement to refer the matter to the Arbitration Committee.

By doing so, the parties waive the right to institute any proceedings other than those provided for in Article 18.

2. If the licensee refuses to conclude a special agreement, the licence he has been granted shall be deemed void.

If the proprietor refuses to conclude a special agreement, the compensation referred to in this Article shall be determined by the appropriate national authorities.

Article 23

After the lapse of one year, the decisions of the Arbitration Committee or the appropriate national authorities may, if there are new facts to justify it, be revised with respect to the terms of the licence.

Such revision shall be a matter for the body which gave the decision.

Section 3

Security provisions

Article 24

Information which the Community acquires as a result of carrying out its research programme, and the disclosure of which is liable to harm the defence interests of one or more Member States, shall be subject to a security system in accordance with the following provisions.

1. The Council shall, acting on a proposal from the Commission, adopt security regulations which, account being taken of the provisions of this Article, lay down the various security gradings to be applied and the security measures appropriate to each grading.
2. Where the Commission considers that the disclosure of certain information is liable to harm the defence interests of one or more Member States, it shall provisionally apply to that information the security grading required in that case by the security regulations.

It shall communicate such information forthwith to the Member States, which shall provisionally ensure its security in the same manner.

Member States shall inform the Commission within three months whether they wish to maintain the grading provisionally applied, substitute another or declassify the information.

Upon the expiry of this period, the highest grading of those requested shall be applied. The Commission shall notify the Member States accordingly.

At the request of the Commission or of a Member State, the Council may, acting unanimously, at any time apply another grading or declassify the information. The Council shall obtain the opinion of the Commission before taking any action on a request from a Member State.

3. The provisions of Articles 12 and 13 shall not apply to information subject to a security grading.

Nevertheless, provided that the appropriate security measures are observed,

(a) the information referred to in Articles 12 and 13 may be communicated by the Commission:

(i) to a Joint Undertaking;

(ii) to a person or undertaking other than a Joint Undertaking, through the Member State in whose territory that person or undertaking operates;

(b) the information referred to in Article 13 may be communicated by a Member State to a person or to an undertaking other than a Joint Undertaking, operating in the territory of that State, provided that the Commission is notified of this communication;

(c) each Member State has, however, the right to require the Commission to grant a licence under Article 12 to meet the needs of that State or those of a person or undertaking operating in its territory.

Article 25

1. A Member State notifying the existence or communicating the contents of an application for a patent or utility model relating to a subject specified in Article 16(1) or (2) shall, where appropriate, draw attention to the need to apply a given security grading for defence reasons, at the same time stating the probable duration of such grading.

The Commission shall pass on to the other Member States all communications received in accordance with the preceding subparagraph. The Commission and the Member States shall take those measures which, under the security regulations, correspond to the grading required by the State of origin.

2. The Commission may also pass on these communications to Joint Undertakings or, through a Member State, to a person or to an undertaking other than a Joint Undertaking operating in the territory of that State.

Inventions which are the subject of applications referred to in paragraph 1 may be used only with the consent of the applicant or in accordance with Articles 17 to 23.

The communications and, where appropriate, the use referred to in this paragraph shall be subject to the measures which, under the security regulations, correspond to the security grading required by the State of origin.

The communications shall in all cases be subject to the consent of the State of origin. Consent to communication and use may be withheld only for defence reasons.

3. At the request of the Commission or of a Member State, the Council may, acting unanimously, at any time apply another grading or declassify the information. The Council shall obtain the opinion of the Commission before taking any action on a request from a Member State.

Article 26

1. Where information covered by patents, patent applications, provisionally protected patent rights, utility models or applications for utility models has been classified in accordance with Articles 24 and 25, the States which have applied for such classification may not refuse to allow corresponding applications to be filed in the other Member States.

Each Member State shall take the necessary measures to maintain the security of such rights and applications in accordance with the procedure laid down in its own laws and regulations.

2. No applications relating to information classified in accordance with Article 24 may be filed outside the Member States except with the unanimous consent of the latter. Should Member States fail to make known their attitude, their consent shall be deemed to have been obtained on the expiry of six months from the date on which the information was communicated to the Member States by the Commission.

Article 27

Compensation for any damage suffered by the applicant as a result of classification for defence reasons shall be governed by the provisions of the national laws of the Member States and shall be the responsibility of the State which applied for such classification or which either obtained the upgrading or extension of the classification or caused the filing of applications outside the Community to be prohibited.

Where several Member States have either obtained the upgrading or extension of the classification or caused the filing of applications outside the Community to be prohibited, they shall be jointly responsible for making good any damage arising out of their action.

The Community may not claim any compensation under this Article.

Section 4

Special provisions

Article 28

Where, as a result of their communication to the Commission, unpublished applications for patents or utility models, or patents or utility models classified for defence reasons, are improperly used or come to the knowledge of an unauthorised person, the Community shall make good the damage suffered by the party concerned.

Without prejudice to its own rights against the person responsible for the damage, the Community shall, to the extent that it has made good such damage, acquire any rights of action enjoyed by those concerned against third parties. This shall not affect the right of the Community to take action against the person responsible for the damage in accordance with the general provisions in force.

Article 29

Where an agreement or contract for the exchange of scientific or industrial information in the nuclear field between a Member State, a person or an undertaking on the one hand, and a third State, an international organisation or a national of a third State on the other, requires, on either part, the signature of a State acting in its sovereign capacity, it shall be concluded by the Commission.

Subject to the provisions of Articles 103 and 104, the Commission may, however, on such conditions as it considers appropriate, authorise a Member State, a person or an undertaking to conclude such agreements.

CHAPTER 3

Health and safety

Article 30

Basic standards shall be laid down within the Community for the protection of the health of workers and the general public against the dangers arising from ionizing radiations.

The expression 'basic standards' means:

- (a) maximum permissible doses compatible with adequate safety;
- (b) maximum permissible levels of exposure and contamination;
- (c) the fundamental principles governing the health surveillance of workers.

Article 31

The basic standards shall be worked out by the Commission after it has obtained the opinion of a group of persons appointed by the Scientific and Technical Committee from among scientific experts, and in particular public health experts, in the Member States. The Commission shall obtain the opinion of the Economic and Social Committee on these basic standards.

After consulting the European Parliament the Council shall, on a proposal from the Commission, which shall forward to it the opinions obtained from these Committees, establish the basic standards; the Council shall act by a qualified majority.

Article 32

At the request of the Commission or of a Member State, the basic standards may be revised or supplemented in accordance with the procedure laid down in Article 31.

The Commission shall examine any request made by a Member State.

Article 33

Each Member State shall lay down the appropriate provisions, whether by legislation, regulation or administrative action, to ensure compliance with the basic standards which have been established and shall take the necessary measures with regard to teaching, education and vocational training.

The Commission shall make appropriate recommendations for harmonising the provisions applicable in this field in the Member States.

To this end, the Member States shall communicate to the Commission the provisions applicable at the date of entry into force of this Treaty and any subsequent draft provisions of the same kind.

Any recommendations the Commission may wish to issue with regard to such draft provisions shall be made within three months of the date on which such draft provisions are communicated.

Article 34

Any Member State in whose territories particularly dangerous experiments are to take place shall take additional health and safety measures, on which it shall first obtain the opinion of the Commission.

The assent of the Commission shall be required where the effects of such experiments are liable to affect the territories of other Member States.

Article 35

Each Member State shall establish the facilities necessary to carry out continuous monitoring of the level of radioactivity in the air, water and soil and to ensure compliance with the basic standards.

The Commission shall have the right of access to such facilities; it may verify their operation and efficiency.

Article 36

The appropriate authorities shall periodically communicate information on the checks referred to in Article 35 to the Commission so that it is kept informed of the level of radioactivity to which the public is exposed.

Article 37

Each Member State shall provide the Commission with such general data relating to any plan for the disposal of radioactive waste in whatever form will make it possible to determine whether the implementation of such plan is liable to result in the radioactive contamination of the water, soil or airspace of another Member State.

The Commission shall deliver its opinion within six months, after consulting the group of experts referred to in Article 31.

Article 38

The Commission shall make recommendations to the Member States with regard to the level of radioactivity in the air, water and soil.

In cases of urgency, the Commission shall issue a directive requiring the Member State concerned to take, within a period laid down by the Commission, all necessary measures to prevent infringement of the basic standards and to ensure compliance with regulations.

Should the State in question fail to comply with the Commission directive within the period laid down, the Commission or any Member State concerned may forthwith, by way of derogation from Articles 258 and 259 of the Treaty on the Functioning of the European Union, bring the matter before the Court of Justice of the European Union.

Article 39

The Commission shall set up within the framework of the Joint Nuclear Research Centre, as soon as the latter has been established, a health and safety documentation and study section.

This section shall in particular have the task of collecting the documentation and information referred to in Articles 33, 36 and 37 and of assisting the Commission in carrying out the tasks assigned to it by this Chapter.

*CHAPTER 4***Investment***Article 40*

In order to stimulate action by persons and undertakings and to facilitate coordinated development of their investment in the nuclear field, the Commission shall periodically publish illustrative programmes indicating in particular nuclear energy production targets and all the types of investment required for their attainment.

The Commission shall obtain the opinion of the Economic and Social Committee on such programmes before their publication.

Article 41

Persons and undertakings engaged in the industrial activities listed in Annex II to this Treaty shall communicate to the Commission investment projects relating to new installations and also to replacements or conversions which fulfil the criteria as to type and size laid down by the Council on a proposal from the Commission.

The list of industrial activities referred to above may be altered by the Council, acting by a qualified majority on a proposal from the Commission, which shall first obtain the opinion of the Economic and Social Committee.

Article 42

The projects referred to in Article 41 shall be communicated to the Commission and, for information purposes, to the Member State concerned not later than three months before the first contracts are concluded with the suppliers or, if the work is to be carried out by the undertaking with its own resources, three months before the work begins.

The Council may, acting on a proposal from the Commission, alter this time limit.

Article 43

The Commission shall discuss with the persons or undertakings all aspects of investment projects which relate to the objectives of this Treaty.

It shall communicate its views to the Member State concerned.

Article 44

The Commission may, with the consent of the Member States, persons and undertakings concerned, publish any investment projects communicated to it.

CHAPTER 5

Joint undertakings*Article 45*

Undertakings which are of fundamental importance to the development of the nuclear industry in the Community may be established as Joint Undertakings within the meaning of this Treaty, in accordance with the following Articles.

Article 46

1. Every project for establishing a Joint Undertaking, whether originating from the Commission, a Member State or any other quarter, shall be the subject of an inquiry by the Commission.

For this purpose, the Commission shall obtain the views of Member States and of any public or private body which in its opinion can usefully advise it.

2. The Commission shall forward to the Council any project for establishing a Joint Undertaking, together with its reasoned opinion.

If the Commission delivers a favourable opinion on the need for the proposed Joint Undertaking, it shall submit proposals to the Council concerning:

- (a) location;
- (b) statutes;
- (c) the scale of and timetable for financing;
- (d) possible participation by the Community in the financing of the Joint Undertaking;
- (e) possible participation by a third State, an international organisation or a national of a third State in the financing or management of the Joint Undertaking;
- (f) the conferring of any or all of the advantages listed in Annex III to this Treaty.

The Commission shall attach a detailed report on the project as a whole.

Article 47

The Council may, when the matter has been submitted to it by the Commission, request the latter to supply such further information or to undertake such further inquiries as the Council may consider necessary.

If the Council, acting by a qualified majority, considers that a project forwarded by the Commission with an unfavourable opinion should nevertheless be carried out, the Commission shall submit to the Council the proposals and the detailed report referred to in Article 46.

Where the opinion of the Commission is favourable or in the case referred to in the preceding paragraph, the Council shall act by a qualified majority on each of the proposals from the Commission.

The Council shall, however, act unanimously in respect of:

- (a) participation by the Community in the financing of the Joint Undertaking;
- (b) participation by a third State, an international organisation or a national of a third State in the financing or management of the Joint Undertaking.

Article 48

The Council may, acting unanimously on a proposal from the Commission, make applicable to each Joint Undertaking any or all of the advantages listed in Annex III to this Treaty; each Member State shall for its part ensure that these advantages are conferred.

The Council may, in accordance with the same procedure, lay down the conditions governing the conferment of these advantages.

Article 49

Joint Undertakings shall be established by Council decision.

Each Joint Undertaking shall have legal personality.

In each of the Member States, it shall enjoy the most extensive legal capacity accorded to legal persons under their respective national laws; it may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings.

Save as otherwise provided in this Treaty or in its own statutes, each Joint Undertaking shall be governed by the rules applying to industrial or commercial undertakings; its statutes may make subsidiary reference to the national laws of the Member States.

Save where jurisdiction is conferred upon the Court of Justice of the European Union by this Treaty, disputes in which Joint Undertakings are concerned shall be determined by the appropriate national courts or tribunals.

Article 50

The statutes of Joint Undertakings shall be amended, where necessary, in accordance with the special provisions which they contain for this purpose.

Such amendments shall not, however, enter into force until they have been approved by the Council, acting in accordance with the procedure laid down in Article 47 on a proposal from the Commission.

Article 51

The Commission shall be responsible for carrying out all decisions of the Council relating to the establishment of Joint Undertakings until the bodies responsible for the operation of such undertakings have been set up.

CHAPTER 6

Supplies

Article 52

1. The supply of ores, source materials and special fissile materials shall be ensured, in accordance with the provisions of this Chapter, by means of a common supply policy on the principle of equal access to sources of supply.

2. For this purpose and under the conditions laid down in this Chapter:

- (a) all practices designed to secure a privileged position for certain users shall be prohibited;
- (b) an Agency is hereby established; it shall have a right of option on ores, source materials and special fissile materials produced in the territories of Member States and an exclusive right to conclude contracts relating to the supply of ores, source materials and special fissile materials coming from inside the Community or from outside.

The Agency may not discriminate in any way between users on grounds of the use which they intend to make of the supplies requested unless such use is unlawful or is found to be contrary to the conditions imposed by suppliers outside the Community on the consignment in question.

Section 1

The Agency

Article 53

The Agency shall be under the supervision of the Commission, which shall issue directives to it, possess a right of veto over its decisions and appoint its Director General and Deputy Director General.

Any act, whether implied or expressed, performed by the Agency in the exercise of its right of option or of its exclusive right to conclude supply contracts, may be referred by the parties concerned to the Commission, which shall give a decision thereon within one month.

Article 54

The Agency shall have legal personality and financial autonomy.

The Council shall lay down the statutes of the Agency, acting by a qualified majority on a proposal from the Commission.

The statutes may be amended in accordance with the same procedure.

The statutes shall determine the Agency's capital and the terms upon which it is to be subscribed. The major part of the capital shall always belong to the Community and to the Member States. The contributions to the capital shall be determined by common accord of the Member States.

The rules for the commercial management of the activities of the Agency shall be laid down in the statutes. The latter may provide for a charge on transactions to defray the operating expenses of the Agency.

Article 55

The Member States shall communicate or cause to be communicated to the Agency all the information necessary to enable it to exercise its right of option and its exclusive right to conclude supply contracts.

Article 56

The Member States shall be responsible for ensuring that the Agency may operate freely in their territories.

They may establish one or more bodies having authority to represent, in relations with the Agency, producers and users in the non European territories under their jurisdiction.

Section 2

Ores, source materials and special fissile materials coming from inside the Community

Article 57

1. The right of option of the Agency shall cover:
 - (a) the acquisition of rights to use and consume materials owned by the Community under the provisions of Chapter 8;
 - (b) the acquisition of the right of ownership in all other cases.

2. The Agency shall exercise its right of option by concluding contracts with producers of ores, source materials and special fissile materials.

Subject to Articles 58, 62 and 63, every producer shall offer to the Agency the ores, source materials or special fissile materials which he produces within the territories of Member States before they are used, transferred or stored.

Article 58

Where a producer carries out several stages of production from extraction of the ore up to and including production of the metal, he may offer the product to the Agency at whichever stage of production he chooses.

The same shall apply to two or more connected undertakings, where the connection has been duly communicated to the Commission and discussed with it in accordance with the procedures laid down in Articles 43 and 44.

Article 59

If the Agency does not exercise its right of option on the whole or any part of the output of a producer, the latter:

- (a) may, either by using his own resources or under contract, process or cause to be processed the ores, source materials or special fissile materials, provided that he offers to the Agency the product of such processing;
- (b) shall be authorised by a decision of the Commission to dispose of his available production outside the Community, provided that the terms he offers are not more favourable than those previously offered to the Agency. However, special fissile materials may be exported only through the Agency and in accordance with the provisions of Article 62.

The Commission may not grant such authorisation if the recipients of the supplies fail to satisfy it that the general interests of the Community will be safeguarded or if the terms and conditions of such contracts are contrary to the objectives of this Treaty.

Article 60

Potential users shall periodically inform the Agency of the supplies they require, specifying the quantities, the physical and chemical nature, the place of origin, the intended use, delivery dates and price terms, which are to form the terms and conditions of the supply contract which they wish to conclude.

Similarly, producers shall inform the Agency of offers which they are able to make, stating all the specifications, and in particular the duration of contracts, required to enable their production programmes to be drawn up. Such contracts shall be of not more than 10 years' duration save with the agreement of the Commission.

The Agency shall inform all potential users of the offers and of the volume of applications which it has received and shall call upon them to place their orders by a specified time limit.

When the Agency has received all such orders, it shall make known the terms on which it can meet them.

If the Agency cannot meet in their entirety all the orders received, it shall, subject to the provisions of Articles 68 and 69, share out the supplies proportionately among the orders relating to each offer.

Agency rules, which shall require approval by the Commission, shall determine the manner in which demand is to be balanced against supply.

Article 61

The Agency shall meet all orders unless prevented from so doing by legal or material obstacles.

When concluding a contract, the Agency may, while complying with the provisions of Article 52, require users to make appropriate advance payments either as security or to assist in meeting the Agency's own long term commitments to producers where these are essential to carrying out the order.

Article 62

1. The Agency shall exercise its right of option on special fissile materials produced in the territories of Member States in order:

- (a) to meet demand from users within the Community in accordance with Article 60; or
- (b) to store such materials itself; or
- (c) to export such materials with the authorisation of the Commission which shall comply with the second subparagraph of Article 59(b).

2. Nevertheless, while continuing to be subject to the provisions of Chapter 7, such materials and any fertile wastes shall be left in the possession of the producer, so that he may:

- (a) store them with the authorisation of the Agency; or
- (b) use them within the limits of his own requirements; or

(c) make them available to undertakings in the Community, within the limits of their requirements, where for carrying out a programme duly communicated to the Commission, these undertakings have with the producer a direct connection which has neither the aim nor the effect of limiting production, technical development or investment or of improperly creating inequalities between users in the Community.

3. The provisions of Article 89(1)(a) shall apply to special fissile materials which are produced in the territories of Member States and on which the Agency has not exercised its right of option.

Article 63

Ores, source materials and special fissile materials produced by Joint Undertakings shall be allotted to users in accordance with the rules laid down in the statutes or agreements of such undertakings.

Section 3

Ores, source materials and special fissile materials coming from outside the Community

Article 64

The Agency, acting where appropriate within the framework of agreements concluded between the Community and a third State or an international organisation, shall, subject to the exceptions provided for in this Treaty, have the exclusive right to enter into agreements or contracts whose principal aim is the supply of ores, source materials or special fissile materials coming from outside the Community.

Article 65

Article 60 shall apply to applications from users and to contracts between users and the Agency relating to the supply of ores, source materials or special fissile materials coming from outside the Community.

The Agency may, however, decide on the geographical origin of supplies provided that conditions which are at least as favourable as those specified in the order are thereby secured for the user.

Article 66

Should the Commission find, on application by the users concerned, that the Agency is not in a position to deliver within a reasonable period of time all or part of the supplies ordered, or that it can only do so at excessively high prices, the users shall have the right to conclude directly contracts relating to supplies from outside the Community, provided that such contracts meet in essential respects the requirements specified in their orders.

This right shall be granted for a period of one year; it may be extended if the situation which justified its granting continues.

Users who avail themselves of the right provided for in this Article shall communicate to the Commission the direct contracts which they propose to conclude. The Commission may, within one month, object to the conclusion of such contracts if they are contrary to the objectives of this Treaty.

Section 4

Prices

Article 67

Save where exceptions are provided for in this Treaty, prices shall be determined as a result of balancing supply against demand as provided in Article 60; the national regulations of the Member States shall not contravene such provisions.

Article 68

Pricing practices designed to secure a privileged position for certain users in violation of the principle of equal access laid down in the provisions of this Chapter shall be prohibited.

If the Agency finds that any such practices are being employed it shall report them to the Commission.

The Commission may, if it accepts the findings, set the prices of the offers in issue at a level compatible with the principle of equal access.

Article 69

The Council may fix prices, acting unanimously on a proposal from the Commission.

When the Agency lays down, in pursuance of Article 60, the terms on which orders can be met, it may propose to the users who have placed orders that prices be equalized.

Section 5

Provisions relating to supply policy

Article 70

Within the limits set by the budget of the Community, the Commission may, on such conditions as it shall determine, give financial support to prospecting programmes in the territories of Member States.

The Commission may make recommendations to the Member States with a view to the development of prospecting for and exploitation of mineral deposits.

The Member States shall submit annually to the Commission a report on the development of prospecting and production, on probable reserves and on investment in mining which has been made or is planned in their territories. The reports shall be submitted to the Council, together with an opinion from the Commission which shall state in particular what action has been taken by Member States on recommendations made to them under the preceding paragraph.

If, when the matter has been submitted to it by the Commission, the Council finds by a qualified majority that, although the prospects for extraction appear economically justified on a long term basis, prospecting activities and the expansion of mining operations continue to be markedly inadequate, the Member State concerned shall, for as long as it has failed to remedy this situation, be deemed to have waived, both for itself and for its nationals, the right of equal access to other sources of supply within the Community.

Article 71

The Commission shall make all appropriate recommendations to Member States with regard to revenue or mining regulations.

Article 72

The Agency may, from material available inside or outside the Community, build up the necessary commercial stocks to facilitate supplies to or normal deliveries by the Community.

The Commission may, where necessary, decide to build up emergency stocks. The method of financing such stocks shall be approved by the Council, acting by a qualified majority on a proposal from the Commission.

Section 6

Special provisions

Article 73

Where an agreement or contract between a Member State, a person or an undertaking on the one hand, and a third State, an international organisation or a national of a third State on the other, provides inter alia for delivery of products which come within the province of the Agency, the prior consent of the Commission shall be required for the conclusion or renewal of that agreement or contract, as far as delivery of the products is concerned.

Article 74

The Commission may exempt from the provisions of this Chapter the transfer, import or export of small quantities of ores, source materials or special fissile materials such as are normally used in research.

The Agency shall be notified of every transfer, import or export operation effected by virtue of this provision.

Article 75

The provisions of this Chapter shall not apply to commitments relating to the processing, conversion or shaping of ores, source materials or special fissile materials and entered into:

- (a) by several persons or undertakings, where the material is to return to the original person or undertaking after being processed, converted or shaped; or
- (b) by a person or undertaking and an international organisation or a national of a third State, where the material is processed, converted or shaped outside the Community and then returned to the original person or undertaking; or
- (c) by a person or undertaking and an international organisation or a national of a third State, where the material is processed, converted or shaped inside the Community and is then returned either to the original organisation or national or to any other consignee likewise outside the Community designated by such organisation or national.

The persons and undertakings concerned shall, however, notify the Agency of the existence of such commitments and, as soon as the contracts are signed, of the quantities of material involved in the movements. The Commission may prevent the commitments referred to in subparagraph (b) from being undertaken if it considers that the conversion or shaping cannot be carried out efficiently and safely and without the loss of material to the detriment of the Community.

The materials to which such commitments relate shall be subject in the territories of the Member States to the safeguards laid down in Chapter 7. The provisions of Chapter 8 shall not, however, be applicable to special fissile materials covered by the commitments referred to in subparagraph (c).

Article 76

On the initiative of a Member State or of the Commission, and particularly if unforeseen circumstances create a situation of general shortage, the Council may, acting unanimously on a proposal from the Commission and after consulting the European Parliament, amend the provisions of this Chapter. The Commission shall inquire into any request made by a Member State.

Seven years after 1 January 1958, the Council may confirm these provisions in their entirety. Failing confirmation, new provisions relating to the subject matter of this Chapter shall be adopted in accordance with the procedure laid down in the preceding paragraph.

*CHAPTER 7***Safeguards***Article 77*

In accordance with the provisions of this Chapter, the Commission shall satisfy itself that, in the territories of Member States:

- (a) ores, source materials and special fissile materials are not diverted from their intended uses as declared by the users;
- (b) the provisions relating to supply and any particular safeguarding obligations assumed by the Community under an agreement concluded with a third State or an international organisation are complied with.

Article 78

Anyone setting up or operating an installation for the production, separation or other use of source materials or special fissile materials or for the processing of irradiated nuclear fuels shall declare to the Commission the basic technical characteristics of the installations, to the extent that knowledge of these characteristics is necessary for the attainment of the objectives set out in Article 77.

The Commission must approve the techniques to be used for the chemical processing of irradiated materials, to the extent necessary to attain the objectives set out in Article 77.

Article 79

The Commission shall require that operating records be kept and produced in order to permit accounting for ores, source materials and special fissile materials used or produced. The same requirement shall apply in the case of the transport of source materials and special fissile materials.

Those subject to such requirements shall notify the authorities of the Member State concerned of any communications they make to the Commission pursuant to Article 78 and to the first paragraph of this Article.

The nature and the extent of the requirements referred to in the first paragraph of this Article shall be defined in a regulation made by the Commission and approved by the Council.

Article 80

The Commission may require that any excess special fissile materials recovered or obtained as by products and not actually being used or ready for use shall be deposited with the Agency or in other stores which are or can be supervised by the Commission.

Special fissile materials deposited in this way must be returned forthwith to those concerned at their request.

Article 81

The Commission may send inspectors into the territories of Member States. Before sending an inspector on his first assignment in the territory of a Member State, the Commission shall consult the State concerned; such consultation shall suffice to cover all future assignments of this inspector.

On presentation of a document establishing their authority, inspectors shall at all times have access to all places and data and to all persons who, by reason of their occupation, deal with materials, equipment or installations subject to the safeguards provided for in this Chapter, to the extent necessary in order to apply such safeguards to ores, source materials and special fissile materials and to ensure compliance with the provisions of Article 77. Should the State concerned so request, inspectors appointed by the Commission shall be accompanied by representatives of the authorities of that State; however, the inspectors shall not thereby be delayed or otherwise impeded in the performance of their duties.

If the carrying out of an inspection is opposed, the Commission shall apply to the President of the Court of Justice of the European Union for an order to ensure that the inspection be carried out compulsorily. The President of the Court of Justice of the European Union shall give a decision within three days.

If there is danger in delay, the Commission may itself issue a written order, in the form of a decision, to proceed with the inspection. This order shall be submitted without delay to the President of the Court of Justice of the European Union for subsequent approval.

After the order or decision has been issued, the authorities of the State concerned shall ensure that the inspectors have access to the places specified in the order or decision.

Article 82

Inspectors shall be recruited by the Commission.

They shall be responsible for obtaining and verifying the records referred to in Article 79. They shall report any infringement to the Commission.

The Commission may issue a directive calling upon the Member State concerned to take, by a time limit set by the Commission, all measures necessary to bring such infringement to an end; it shall inform the Council thereof.

If the Member State does not comply with the Commission directive by the time limit set, the Commission or any Member State concerned may, in derogation from Articles 258 and 259 of the Treaty on the Functioning of the European Union, refer the matter to the Court of Justice of the European Union direct.

Article 83

1. In the event of an infringement on the part of persons or undertakings of the obligations imposed on them by this Chapter, the Commission may impose sanctions on such persons or undertakings.

These sanctions shall be in order of severity:

- (a) a warning;
- (b) the withdrawal of special benefits such as financial or technical assistance;
- (c) the placing of the undertaking for a period not exceeding four months under the administration of a person or board appointed by common accord of the Commission and the State having jurisdiction over the undertaking;
- (d) total or partial withdrawal of source materials or special fissile materials.

2. Decisions taken by the Commission in implementation of paragraph 1 and requiring the surrender of materials shall be enforceable. They may be enforced in the territories of Member States in accordance with Article 164.

By way of derogation from Article 157, appeals brought before the Court of Justice of the European Union against decisions of the Commission which impose any of the sanctions provided for in paragraph 1 shall have suspensory effect. The Court of Justice of the European Union may, however, on application by the Commission or by any Member State concerned, order that the decision be enforced forthwith.

There shall be an appropriate legal procedure to ensure the protection of interests that have been prejudiced.

3. The Commission may make any recommendations to Member States concerning laws or regulations which are designed to ensure compliance in their territories with the obligations arising under this Chapter.

4. Member States shall ensure that sanctions are enforced and, where necessary, that the infringements are remedied by those committing them.

Article 84

In the application of the safeguards, no discrimination shall be made on grounds of the use for which ores, source materials and special fissile materials are intended.

The scope of and procedure for the safeguards and the powers of the bodies responsible for their application shall be confined to the attainment of the objectives set out in this Chapter.

The safeguards may not extend to materials intended to meet defence requirements which are in the course of being specially processed for this purpose or which, after being so processed, are, in accordance with an operational plan, placed or stored in a military establishment.

Article 85

Where new circumstances so require, the procedures for applying the safeguards laid down in this Chapter may, at the request of a Member State or of the Commission, be adapted by the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament. The Commission shall examine any such request made by a Member State.

CHAPTER 8

Property ownership

Article 86

Special fissile materials shall be the property of the Community.

The Community's right of ownership shall extend to all special fissile materials which are produced or imported by a Member State, a person or an undertaking and are subject to the safeguards provided for in Chapter 7.

Article 87

Member States, persons or undertakings shall have the unlimited right of use and consumption of special fissile materials which have properly come into their possession, subject to the obligations imposed on them by this Treaty, in particular those relating to safeguards, the right of option conferred on the Agency and health and safety.

Article 88

The Agency shall keep a special account in the name of the Community, called 'Special Fissile Materials Financial Account'.

Article 89

1. In the Special Fissile Materials Financial Account:

- (a) the value of special fissile materials left in the possession of or put at the disposal of a Member State, person or undertaking shall be credited to the Community and debited to that Member State, person or undertaking;
- (b) the value of special fissile materials which are produced or imported by a Member State, person or undertaking and become the property of the Community shall be debited to the Community and credited to that Member State, person or undertaking. A similar entry shall be made when a Member State, person or undertaking restores to the Community special fissile materials previously left in the possession of or put at the disposal of that State, person or undertaking.

2. Variations in value affecting the quantities of special fissile material shall be expressed for accounting purposes in such a way as not to give rise to any loss or gain to the Community. Any loss or gain shall be borne by or accrue to the holder.

3. Balances arising from the transactions referred to above shall become payable forthwith upon the request of the creditor.

4. Where the Agency undertakes transactions for its own account, it shall, for the purposes of this Chapter, be deemed to be an undertaking.

Article 90

Where new circumstances so require, the provisions of this Chapter relating to the Community's right of ownership may, at the request of a Member State or of the Commission, be adjusted by the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament. The Commission shall examine any such request made by a Member State.

Article 91

The system of ownership applicable to all objects, materials and assets which are not vested in the Community under this Chapter shall be determined by the law of each Member State.

CHAPTER 9

The nuclear common market

Article 92

The provisions of this Chapter shall apply to the goods and products specified in the lists forming Annex IV to this Treaty.

These lists may, at the request of the Commission or of a Member State, be amended by the Council, acting on a proposal from the Commission.

Article 93

Member States shall prohibit between themselves all customs duties on imports and exports or charges having equivalent effect, and all quantitative restrictions on imports and exports, in respect of:

- (a) products in List A¹ and A²;
- (b) products in List B if subject to a Common Customs Tariff and accompanied by a certificate issued by the Commission stating that they are intended to be used for nuclear purposes.

Non European territories under the jurisdiction of a Member State may, however, continue to levy import and export duties or charges having equivalent effect where they are of an exclusively fiscal nature. The rates of such duties and charges and the system governing them shall not give rise to any discrimination between that State and the other Member States.

Articles 94 and 95

(repealed)

Article 96

The Member States shall abolish all restrictions based on nationality affecting the right of nationals of any Member State to take skilled employment in the field of nuclear energy, subject to the limitations resulting from the basic requirements of public policy, public security or public health.

After consulting the European Parliament, the Council may, acting by a qualified majority on a proposal from the Commission, which shall first request the opinion of the Economic and Social Committee, issue directives for the application of this Article.

Article 97

No restrictions based on nationality may be applied to natural or legal persons, whether public or private, under the jurisdiction of a Member State, where they desire to participate in the construction of nuclear installations of a scientific or industrial nature in the Community.

Article 98

Member States shall take all measures necessary to facilitate the conclusion of insurance contracts covering nuclear risks.

The Council, acting by a qualified majority on a proposal from the Commission, which shall first request the opinion of the Economic and Social Committee, shall, after consulting the European Parliament, issue directives for the application of this Article.

Article 99

The Commission may make any recommendations for facilitating movements of capital intended to finance the industrial activities listed in Annex II to this Treaty.

Article 100

(repealed)

*CHAPTER 10****External relations****Article 101*

The Community may, within the limits of its powers and jurisdiction, enter into obligations by concluding agreements or contracts with a third State, an international organisation or a national of a third State.

Such agreements or contracts shall be negotiated by the Commission in accordance with the directives of the Council; they shall be concluded by the Commission with the approval of the Council, which shall act by a qualified majority.

Agreements or contracts whose implementation does not require action by the Council and can be effected within the limits of the relevant budget shall, however, be negotiated and concluded solely by the Commission; the Commission shall keep the Council informed.

Article 102

Agreements or contracts concluded with a third State, an international organisation or a national of a third State to which, in addition to the Community, one or more Member States are parties, shall not enter into force until the Commission has been notified by all the Member States concerned that those agreements or contracts have become applicable in accordance with the provisions of their respective national laws.

Article 103

Member States shall communicate to the Commission draft agreements or contracts with a third State, an international organisation or a national of a third State to the extent that such agreements or contracts concern matters within the purview of this Treaty.

If a draft agreement or contract contains clauses which impede the application of this Treaty, the Commission shall, within one month of receipt of such communication, make its comments known to the State concerned.

The State shall not conclude the proposed agreement or contract until it has satisfied the objections of the Commission or complied with a ruling by the Court of Justice of the European Union, adjudicating urgently upon an application from the State, on the compatibility of the proposed clauses with the provisions of this Treaty. An application may be made to the Court of Justice of the European Union at any time after the State has received the comments of the Commission.

Article 104

No person or undertaking concluding or renewing an agreement or contract with a third State, an international organisation or a national of a third State after 1 January 1958 or, for acceding States, after the date of their accession, may invoke that agreement or contract in order to evade the obligations imposed by this Treaty.

Each Member State shall take such measures as it considers necessary in order to communicate to the Commission, at the request of the latter, all information relating to agreements or contracts concluded after the dates referred to in the first paragraph, within the scope of this Treaty, by a person or undertaking with a third State, an international organisation or a national of a third State. The Commission may require such communication only for the purpose of verifying that such agreements or contracts do not contain clauses impeding the implementation of this Treaty.

On application by the Commission, the Court of Justice of the European Union shall give a ruling on the compatibility of such agreements or contracts with the provisions of this Treaty.

Article 105

The provisions of this Treaty shall not be invoked so as to prevent the implementation of agreements or contracts concluded before 1 January 1958 or, for acceding States, before the date of their accession, by a Member State, a person or an undertaking with a third State, an international organisation or a national of a third State where such agreements or contracts have been communicated to the Commission not later than 30 days after the aforesaid dates.

Agreements or contracts concluded between 25 March 1957 and 1 January 1958 or, for acceding States, between the signature of the instrument of accession and the date of their accession, by a person or an undertaking with a third State, an international organisation or a national of a third State shall not, however, be invoked as grounds for failure to implement this Treaty if, in the opinion of the Court of Justice of the European Union, ruling on an application from the Commission, one of the decisive reasons on the part of either of the parties in concluding the agreement or contract was an intention to evade the provisions of this Treaty.

Article 106

Member States which, before 1 January 1958 or, for acceding States, before the date of their accession, have concluded agreements with third States providing for cooperation in the field of nuclear energy shall be required to undertake jointly with the Commission the necessary negotiations with these third States in order to ensure that the rights and obligations arising out of such agreements shall as far as possible be assumed by the Community.

Any new agreement ensuing from such negotiations shall require the consent of the Member State or States signatory to the agreements referred to above and the approval of the Council, which shall act by a qualified majority.

TITLE III

INSTITUTIONAL AND FINANCIAL PROVISIONS

CHAPTER 1

Application of certain provisions of the Treaty on European Union and of the Treaty on the Functioning of the European Union*Article 106a*

1. Article 7, Articles 13 to 19, Article 48(2) to (5), and Articles 49 and 50 of the Treaty on European Union, and Article 15, Articles 223 to 236, Articles 237 to 244, Article 245, Articles 246 to 270, Article 272, 273 and 274, Articles 277 to 281, Articles 285 to 304, Articles 310 to 320, Articles 322 to 325 and Articles 336, 342 and 344 of the Treaty on the Functioning of the European Union, and the Protocol on Transitional Provisions, shall apply to this Treaty.

2. Within the framework of this Treaty, the references to the Union, to the 'Treaty on European Union', to the 'Treaty on the Functioning of the European Union' or to the 'Treaties' in the provisions referred to in paragraph 1 and those in the protocols annexed both to those Treaties and to this Treaty shall be taken, respectively, as references to the European Atomic Energy Community and to this Treaty.

3. The provisions of the Treaty on European Union and of the Treaty on the Functioning of the European Union shall not derogate from the provisions of this Treaty.

CHAPTER 2

The Institutions of the Community

Section 1

The European Parliament*Articles 107 to 114**(repealed)*

Section 2

The Council*Articles 115 to 123**(repealed)*

Section 3

The Commission*Articles 124 to 133**(repealed)*

Article 134

1. A Scientific and Technical Committee is hereby set up; it shall be attached to the Commission and shall have advisory status.

The Committee must be consulted where this Treaty so provides. The Committee may be consulted in all cases in which the Commission considers this appropriate.

2. The Committee shall consist of forty-one members, appointed by the Council after consultation with the Commission.

The Members of the Committee shall be appointed in their personal capacity for five years. Their appointment shall be renewable. They shall not be bound by any mandatory instructions.

The Scientific and Technical Committee shall each year elect its chairman and officers from among its Members.

Article 135

The Commission may undertake any consultations and establish any study groups necessary to the performance of its tasks.

Section 4

The Court of Justice of the European Union

Articles 136 to 143

(repealed)

Article 144

The Court of Justice of the European Union shall have unlimited jurisdiction in:

- (a) proceedings instituted under Article 12 to have the appropriate terms fixed for the granting by the Commission of licences or sub licences;
- (b) proceedings instituted by persons or undertakings against sanctions imposed on them by the Commission under Article 83.

Article 145

If the Commission considers that a person or undertaking has committed an infringement of this Treaty to which the provisions of Article 83 do not apply, it shall call upon the Member State having jurisdiction over that person or undertaking to cause sanctions to be imposed in respect of the infringement in accordance with its national law.

If the State concerned does not comply with such a request within the period laid down by the Commission, the latter may bring an action before the Court of Justice of the European Union to have the infringement of which the person or undertaking is accused established.

Articles 146 to 156

(repealed)

Article 157

Save as otherwise provided in this Treaty, actions brought before the Court of Justice of the European Union shall not have suspensory effect. The Court of Justice of the European Union may, however, if it considers that circumstances so require, order that application of the contested act be suspended.

Articles 158 to 160

(repealed)

Section 5

The Court of Auditors

Articles 160a to 160c

(repealed)

CHAPTER 3

Provisions common to several institutions

Articles 161 to 163

(repealed)

Article 164

Enforcement shall be governed by the rules of civil procedure in force in the State in the territory of which it is carried out. The order for its enforcement shall be appended to the decision, without other formality than verification of the authenticity of the decision, by the national authority which the government of each Member State shall designate for this purpose and shall make known to the Commission, to the Court of Justice of the European Union and to the Arbitration Committee set up by Article 18.

When these formalities have been completed on application by the party concerned, the latter may proceed to enforcement in accordance with the national law, by bringing the matter directly before the competent authority.

Enforcement may be suspended only by a decision of the Court of Justice of the European Union. However, the courts of the country concerned shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

CHAPTER 4

The Economic and Social Committee*Articles 165 to 170**(repealed)*

TITLE IV

SPECIFIC FINANCIAL PROVISIONS*Article 171*

1. Estimates shall be drawn up for each financial year of all revenue and expenditure of the Community, other than those of the Agency and the Joint Undertakings, and such revenue and expenditure shall be shown either in the operating budget or in the research and investment budget.

The revenue and expenditure shown in each budget shall be in balance.

2. The revenue and expenditure of the Agency, which shall operate in accordance with commercial principles, shall be budgeted for in a special account.

The manner of estimating, implementing and auditing such revenue and expenditure shall be laid down, with due regard to the statutes of the Agency, in financial regulations made pursuant to Article 322 of the Treaty on the Functioning of the European Union.

3. The estimates of revenue and expenditure, together with the operating accounts and the balance sheets of the Joint Undertakings for each financial year, shall be placed before the Commission, the Council and the European Parliament in accordance with the statutes of those undertakings.

Article 172

1. *(repealed)*

2. *(repealed)*

3. *(repealed)*

4. Loans for the financing of research or investment shall be raised on terms fixed by the Council in the manner provided for in Article 314 of the Treaty on the Functioning of the European Union.

The Community may borrow on the capital market of a Member State, either in accordance with the legal provisions applying to internal issues, or, if there are no such provisions in a Member State, after the Member State concerned and the Commission have conferred together and have reached agreement upon the proposed loan.

The competent authorities of the Member State concerned may refuse to give their assent only if there is reason to fear serious disturbances on the capital market of that State.

Articles 173 and 173a

(repealed)

Article 174

1. The expenditure shown in the operating budget shall include in particular:
 - (a) administrative expenditure;
 - (b) expenditure relating to safeguards and to health and safety.
2. The expenditure shown in the research and investment budget shall include in particular:
 - (a) expenditure relating to the implementation of the Community research programme;
 - (b) any participation in the capital of the Agency and in its investment expenditure;
 - (c) expenditure relating to the equipment of training establishments;
 - (d) any participation in Joint Undertakings or in certain joint operations.

Article 175

(repealed)

Article 176

1. Subject to the limits resulting from programmes or decisions involving expenditure which, in pursuance of this Treaty, require the unanimous approval of the Council, allocations for research and investment expenditure shall include:
 - (a) commitment appropriations, covering a series of items which constitute a separate unit and form a coherent whole;
 - (b) payment appropriations which represent the maximum amount payable each year in respect of the commitments entered into under subparagraph (a).
2. The schedule of due dates for commitments and payments shall be annexed to the corresponding draft budget proposed by the Commission.

3. Appropriations for research and investment shall be classified under different chapters grouping items of expenditure according to their nature or purpose and subdivided, as far as may be necessary, in accordance with the regulations made pursuant to Article 322 of the Treaty on the Functioning of the European Union.

4. Unused payment authorisations shall be carried forward to the next financial year by decision of the Commission, unless the Council decides otherwise.

Articles 177 to 181

(repealed)

Article 182

1. The Commission may, provided it notifies the competent authorities of the Member States concerned, transfer into the currency of one of the Member States its holdings of currency of another Member State, to the extent necessary to enable them to be used for purposes which come within the scope of this Treaty. The Commission shall as far as possible avoid making such transfers if it possesses cash or liquid assets in the currencies which it needs.

2. The Commission shall deal with each Member State through the authority designated by the State concerned. In carrying out financial operations the Commission shall employ the services of the bank of issue of the Member State concerned or any other financial institutions approved by that State.

3. As regards expenditure which the Community has to incur in the currencies of third countries, the Commission shall, before the budgets are finally adopted, submit to the Council a programme indicating anticipated revenue and expenditure in the different currencies.

This programme shall be approved by the Council, acting by a qualified majority. It may be modified in the course of the financial year in accordance with the same procedure.

4. Member States shall provide the Commission with the currency of third countries needed for the expenditure shown in the programme provided for in paragraph 3 according to the scales laid down in Article 172. Amounts collected by the Commission in the currency of third countries shall be transferred to Member States in accordance with the same scales.

5. The Commission may freely make use of any amounts in the currency of third countries derived from loans it has raised in such countries.

6. The Council may, acting unanimously on a proposal from the Commission apply, in whole or in part, to the Agency and to Joint Undertakings the exchange arrangements provided for in the preceding paragraphs, and, where appropriate, adapt these arrangements to their operational requirements.

Articles 183 and 183a
(repealed)

TITLE V

GENERAL PROVISIONS

Article 184

The Community shall have legal personality.

Article 185

In each of the Member States, the Community shall enjoy the most extensive legal capacity accorded to legal persons under their laws; it may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings. To this end, the Community shall be represented by the Commission.

Article 186

(repealed)

Article 187

The Commission may, within the limits and under the conditions laid down by the Council in accordance with the provisions of this Treaty, collect any information and carry out any checks required for the performance of the tasks entrusted to it.

Article 188

The contractual liability of the Community shall be governed by the law applicable to the contract in question.

In the case of non contractual liability, the Community shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its institutions or by its servants in the performance of their duties.

The personal liability of its servants towards the Community shall be governed by the provisions laid down in the Staff Regulations or in the Conditions of Employment applicable to them.

Article 189

The seat of the institutions of the Community shall be determined by common accord of the governments of the Member States.

Article 190

(repealed)

Article 191

The Community shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of its tasks, under the conditions laid down in the Protocol on the privileges and immunities of the European Union.

Article 192

Member States shall take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of this Treaty or resulting from action taken by the institutions of the Community. They shall facilitate the achievement of the Community's tasks.

They shall abstain from any measure which could jeopardize the attainment of the objectives of this Treaty.

Article 193

Member States undertake not to submit a dispute concerning the interpretation or application of this Treaty to any method of settlement other than those provided for therein.

Article 194

1. The members of the institutions of the Community, the members of committees, the officials and other servants of the Community and any other persons who by reason of their duties or their public or private relations with the institutions or installations of the Community or with Joint Undertakings are called upon to acquire or obtain cognisance of any facts, information, knowledge, documents or objects which are subject to a security system in accordance with provisions laid down by a Member State or by an institution of the Community, shall be required, even after such duties or relations have ceased, to keep them secret from any unauthorised person and from the general public.

Each Member State shall treat any infringement of this obligation as an act prejudicial to its rules on secrecy and as one falling, both as to merits and jurisdiction, within the scope of its laws relating to acts prejudicial to the security of the State or to disclosure of professional secrets. Such Member State shall, at the request of any Member State concerned or of the Commission, prosecute anyone within its jurisdiction who commits such an infringement.

2. Each Member State shall communicate to the Commission all provisions regulating within its territories the classification and secrecy of information, knowledge, documents or objects covered by this Treaty.

The Commission shall ensure that these provisions are communicated to the other Member States.

Each Member State shall take all appropriate measures to facilitate the gradual establishment of as uniform and comprehensive a security system as possible. The Commission may, after consulting the Member States concerned, make recommendations for this purpose.

3. The institutions of the Community, their installations and also the Joint Undertakings shall be required to apply the rules of the security system in force in the territory in which each of them is situated.

4. Any authorisation granted either by an institution of the Community or by a Member State to a person carrying out his activities within the field covered by this Treaty to have access to facts, information, documents or objects covered by this Treaty which are subject to a security system, shall be recognised by every other institution and every other Member State.

5. The provisions of this Article shall not prevent application of special provisions resulting from agreements concluded between a Member State and a third State or an international organisation.

Article 195

The institutions of the Community, the Agency and the Joint Undertakings shall, in applying this Treaty, comply with the conditions of access to ores, source materials and special fissile materials laid down in national rules and regulations made for reasons of public policy or public health.

Article 196

For the purposes of this Treaty, save as otherwise provided therein:

- (a) 'person' means any natural person who pursues all or any of his activities in the territories of Member States within the field specified in the relevant chapter of this Treaty;
- (b) 'undertaking' means any undertaking or institution which pursues all or any of its activities in the territories of Member States within the field specified in the relevant Chapter of this Treaty, whatever its public or private legal status.

Article 197

For the purposes of this Treaty:

1. 'Special fissile materials' means plutonium 239; uranium 233; uranium enriched in uranium 235 or uranium 233; and any substance containing one or more of the foregoing isotopes and such other fissile materials as may be specified by the Council, acting by a qualified majority on a proposal from the Commission; the expression 'special fissile materials' does not, however, include source materials.
2. 'Uranium enriched in uranium 235 or uranium 233' means uranium containing uranium 235 or uranium 233 or both in an amount such that the abundance ratio of the sum of these isotopes to isotope 238 is greater than the ratio of isotope 235 to isotope 238 occurring in nature.
3. 'Source materials' means uranium containing the mixture of isotopes occurring in nature; uranium whose content in uranium 235 is less than the normal; thorium; any of the foregoing in the form of metal, alloy, chemical compound or concentrate; any other substance containing one or more of the foregoing in such a concentration as shall be specified by the Council, acting by a qualified majority on a proposal from the Commission.
4. 'Ores' means any ore containing, in such average concentration as shall be specified by the Council acting by a qualified majority on a proposal from the Commission, substances from which the source materials defined above may be obtained by the appropriate chemical and physical processing.

Article 198

Save as otherwise provided, this Treaty shall apply to the European territories of Member States and to non European territories under their jurisdiction.

It shall also apply to the European territories for whose external relations a Member State is responsible.

The provisions of this Treaty shall apply to the Åland Islands in accordance with the provisions set out in Protocol No 2 to the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.

Notwithstanding the previous paragraphs:

- (a) this Treaty shall not apply to the Faroe Islands.

This Treaty shall not apply to Greenland;

- (b) this Treaty shall not apply to the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus;
- (c) this Treaty shall not apply to those overseas countries and territories having special relations with the United Kingdom of Great Britain and Northern Ireland which are not listed in Annex II to the Treaty on European Union and the Treaty on the Functioning of the European Union;
- (d) this Treaty shall apply to the Channel Islands and the Isle of Man only to the extent necessary to ensure the implementation of the arrangements for those islands set out in the Treaty concerning the accession of new Member States to the European Economic Community and to the European Atomic Energy Community signed on 22 January 1972.

(Point (e) is deleted)

Article 199

It shall be for the Commission to ensure the maintenance of all appropriate relations with the organs of the United Nations, of its specialised agencies and of the World Trade Organisation.

The Commission shall also maintain such relations as are appropriate with all international organisations.

Article 200

The Community shall establish all appropriate forms of cooperation with the Council of Europe.

Article 201

The Community shall establish close cooperation with the Organisation for Economic Cooperation and Development, the details of which shall be determined by common accord.

Article 202

The provisions of this Treaty shall not preclude the existence or completion of regional unions between Belgium and Luxembourg, or between Belgium, Luxembourg and the Netherlands, to the extent that the objectives of these regional unions are not attained by application of this Treaty.

Article 203

If action by the Community should prove necessary to attain one of the objectives of the Community and this Treaty has not provided the necessary powers, the Council shall, acting unanimously on a proposal from the Commission and after consulting the European Parliament, take the appropriate measures.

*Articles 204 and 205**(repealed)**Article 206*

The Community may conclude with one or more States or international organisations agreements establishing an association involving reciprocal rights and obligations, common action and special procedures.

These agreements shall be concluded by the Council, acting unanimously after consulting the European Parliament.

Where such agreements call for amendments to this Treaty, these amendments shall first be adopted in accordance with the procedure laid down in Article 48(2) to (5) of the Treaty on European Union.

Article 207

The Protocols annexed to this Treaty by common accord of the Member States shall form an integral part thereof.

Article 208

This Treaty is concluded for an unlimited period.

TITLE VI

PROVISIONS RELATING TO THE INITIAL PERIOD*(repealed)**Articles 209 to 223**(repealed)***FINAL PROVISIONS***Article 224*

This Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited with the Government of the Italian Republic.

This Treaty shall enter into force on the first day of the month following the deposit of the instrument of ratification by the last signatory State to take this step. If, however, such deposit is made less than 15 days before the beginning of the following month, this Treaty shall not enter into force until the first day of the second month after the date of such deposit.

Article 225

This Treaty, drawn up in a single original in the Dutch, French, German and Italian languages, all four texts being equally authentic, shall be deposited in the archives of the Government of the Italian Republic, which shall transmit a certified copy to each of the governments of the other signatory States.

Pursuant to the Accession Treaties, the Bulgarian, Czech, Danish, English, Estonian, Finnish, Greek, Hungarian, Irish, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish versions of this Treaty shall also be authentic.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have signed this Treaty.

Done at Rome this twenty fifth day of March in the year one thousand nine hundred and fifty seven.

(List of signatories not reproduced)

ANNEXES

ANNEX I

FIELDS OF RESEARCH CONCERNING NUCLEAR ENERGY REFERRED TO IN ARTICLE 4 OF THIS TREATY**I. Raw materials**

1. Methods for the prospecting and mining of base materials (uranium, thorium and other products of particular importance in the field of nuclear energy).
2. Methods of concentrating these materials and converting them into technically pure compounds.
3. Methods of converting these technically pure compounds into nuclear grade compounds and metals.
4. Methods for the conversion and processing of these compounds and metals as well as plutonium, uranium 235 or uranium 233, either pure or combined with such compounds or metals into fuel elements by the chemical, ceramic or metallurgical industries.
5. Methods of protecting such fuel elements against corrosion or erosion by external agents.
6. Methods of producing, refining, processing and preserving other special materials used in the field of nuclear energy, in particular:
 - (a) moderators, such as heavy water, nuclear grade graphite, beryllium and beryllium oxide;
 - (b) structural materials such as zirconium (hafnium-free), niobium, lanthanum, titanium, beryllium and their oxides, carbides and other compounds capable of being used in the field of nuclear energy;
 - (c) coolants, such as helium, organic liquids, sodium, sodium potassium alloys, bismuth, lead bismuth alloys.
7. Methods of isotope separation:
 - (a) of uranium;
 - (b) of materials in ponderable quantities which can be used in the production of nuclear energy, such as lithium 6, lithium 7, nitrogen 15 and boron 10;
 - (c) of isotopes used in small quantities for research.

II. Physics applied to nuclear energy

1. Applied theoretical physics:

- (a) low energy nuclear reactions, in particular neutron induced reactions;
- (b) fission;
- (c) interaction of ionizing radiation and photons with matter;
- (d) solid state theory;
- (e) study of fusion, with particular reference to the behaviour of an ionized plasma under the action of electromagnetic forces and to the thermodynamics of extremely high temperatures.

2. Applied experimental physics:

- (a) the same subjects as those specified in 1 above;
- (b) study of the properties of transuranic elements of importance in the field of nuclear energy.

3. Reactor calculations:

- (a) theoretical macroscopic neutron physics;
- (b) experimental neutron measurements; exponential and critical experiments;
- (c) thermodynamic calculations and calculations of strength of materials;
- (d) corresponding experimental measurements;
- (e) reactor kinetics, reactor control problems and relevant experiments;
- (f) radiation protection calculations and relevant experiments.

III. Physical chemistry of reactors

1. Study of changes in the physical and chemical structure and of alterations in the technical properties of various materials in reactors brought about by:

- (a) heat;
- (b) the nature of the agents with which they are in contact;
- (c) mechanical factors.

2. Study of degradation and other phenomena produced by irradiation in:
 - (a) fuel elements;
 - (b) structural materials and coolants;
 - (c) moderators.
3. Application of analytical chemistry and analytical physical chemistry to reactor components.
4. Physical chemistry of homogeneous reactors: radiochemistry, corrosion.

IV. Processing of radioactive material

1. Methods of extracting plutonium and uranium 233 from irradiated fuels, and possible recovery of uranium or thorium.
2. Chemistry and metallurgy of plutonium.
3. Methods of extracting and chemistry of other transuranic elements.
4. Methods of extracting and chemistry of useful radioisotopes:
 - (a) fission products;
 - (b) radioisotopes obtained by irradiation.
5. Concentration and storage of useless radioactive waste.

V. Applications of radioisotopes

Application of radioisotopes as active elements or tracers in:

- (a) industry and science;
- (b) medicine and biology;
- (c) agriculture.

VI. Study of the harmful affects of radiation on living organisms

1. Study of the detection and measurement of harmful radiations.
2. Study of adequate preventive and protective measures and the appropriate safety standards.
3. Study of the treatment of radiation effects.

VII. Equipment

Studies relating to the construction and improvement of equipment specially intended not only for reactors but also for any of the industrial and research installations required for the research activities listed above. As examples may be mentioned:

1. The following types of mechanical equipment:
 - (a) pumps for special fluids;
 - (b) heat exchangers;
 - (c) apparatus for nuclear physics research, such as neutron velocity selectors;
 - (d) remote handling equipment.
2. The following types of electrical equipment:
 - (a) instruments for radiation detection and measurement, used particularly in:
 - prospecting for minerals,
 - scientific and technical research,
 - reactor control,
 - health and safety,
 - (b) reactor control equipment;
 - (c) low energy particle accelerators (up to 10 MeV).

VIII. Economic aspects of energy production

1. Comparative studies, both theoretical and experimental, of the various reactor types.
 2. Technical and economic study of fuel cycles.
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*ANNEX II***INDUSTRIAL ACTIVITIES REFERRED TO IN ARTICLE 41 OF THIS TREATY**

1. Mining of uranium and thorium ore.
 2. Concentration of such ores.
 3. Chemical processing and refining of uranium and thorium concentrates.
 4. Preparation of nuclear fuels, in any form.
 5. Fabrication of nuclear fuel elements.
 6. Production of uranium hexafluoride.
 7. Production of enriched uranium.
 8. Processing of irradiated fuels for the purpose of separating some or all of the elements contained therein.
 9. Production of reactor moderators.
 10. Production of hafnium-free zirconium or compounds thereof.
 11. Nuclear reactors of all types and for all purposes.
 12. Facilities for the industrial processing of radioactive waste, set up in conjunction with one or more of the facilities specified in this list.
 13. Semi industrial installations intended to prepare the way for the construction of plants involved in any of activities 3 to 10.
-

*ANNEX III***ADVANTAGES WHICH MAY BE CONFERRED ON JOINT UNDERTAKINGS UNDER ARTICLE 48 OF THIS TREATY**

1. (a) Recognition that public interest status in conformity with the national laws applies to the acquisition of immovable property required for the establishment of Joint Undertakings.

(b) Application of national procedure for compulsory acquisition on the grounds of public interest, so that such acquisition may be effected where amicable agreement has not been reached.
 2. The right to be granted licences, either through arbitration or under compulsory powers as provided in Articles 17 to 23.
 3. Exemption from all duties and charges when Joint Undertakings are established and from all duties on assets contributed.
 4. Exemption from all duties and charges levied upon acquisition of immovable property and from all registration and recording charges.
 5. Exemption from all direct taxes to which Joint Undertakings, their property, assets and revenue might otherwise be liable.
 6. Exemption from all customs duties and charges having equivalent effect and from all prohibitions and restrictions on imports or exports, whether of an economic or of a fiscal nature, with regard to:
 - (a) scientific and technical equipment, excluding building materials and equipment for administrative purposes;
 - (b) substances which have been or are to be processed in the Joint Undertaking.
 7. Exchange arrangements provided for in Article 182(6).
 8. Exemption from restrictions on entry and residence for nationals of Member States employed by Joint Undertakings and for their spouses and dependent members of their families.
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ANNEX IV

LIST OF GOODS AND PRODUCTS SUBJECT TO THE PROVISIONS OF CHAPTER 9 ON THE NUCLEAR COMMON MARKET**List A¹**

Uranium ores containing more than 5 per cent by weight of natural uranium.

Pitchblende containing more than 5 per cent by weight of natural uranium.

Uranium oxide.

Inorganic compounds of natural uranium other than uranium oxide and uranium hexafluoride.

Organic compounds of natural uranium.

Crude or processed natural uranium.

Alloys containing plutonium.

Organic or inorganic compounds of uranium enriched in organic or inorganic compounds or uranium-235.

Organic or inorganic compounds or uranium-233.

Thorium enriched in uranium-233.

Organic or inorganic compounds of plutonium.

Uranium enriched in plutonium.

Uranium enriched in uranium-235.

Alloys containing uranium enriched in uranium-235 or uranium-233.

Plutonium.

Uranium-233.

Uranium hexafluoride.

Monazite.

Thorium ores containing more than 20 per cent by weight of thorium.

Urano-thorianite containing more than 20 per cent of thorium.

Crude or processed thorium.

Thorium oxide.

Inorganic compounds of thorium other than thorium oxide.

Organic compounds of thorium.

List A²

Deuterium and its compounds (including heavy water) in which the ratio of the number of deuterium atoms to normal hydrogen atoms exceeds 1:5 000.

Heavy paraffin in which the ratio of the number of deuterium atoms to normal hydrogen atoms exceeds 1:5 000.

Mixtures and solutions in which the ratio of the number of deuterium atoms to normal hydrogen atoms exceeds 1:5 000.

Nuclear reactors.

Equipment for the separation of uranium isotopes by gaseous diffusion or other methods.

Equipment for the production of deuterium, its compounds (including heavy water) and derivatives, and mixtures or solutions containing deuterium in which the ratio of the number of deuterium atoms to normal hydrogen atoms exceeds 1:5 000:

- equipment operating by the electrolysis of water,
- equipment operating by the distillation of water, liquid hydrogen, etc.,
- equipment operating by isotope exchange between hydrogen sulphide and water by means of a change of temperature,
- equipment operating by other techniques.

Equipment specially designed for the chemical processing of radioactive material:

- equipment for the separation of irradiated fuel:
 - by chemical processes (solvents, precipitation, ion exchange, etc.),
 - by physical processes (fractional distillation, etc.),
- waste-processing equipment,
- fuel-recycling equipment.

Vehicles specially designed for the transport of highly radioactive substances:

- railway and tramway goods vans, goods wagons and trucks for tracks of any gauge,
- motor lorries,
- motorised works trucks for the handling of goods,
- trailers and semi-trailers and other non-motorised vehicles.

Containers with lead radiation shielding for the transport or storage of radioactive material.

Artificial radioactive isotopes and their inorganic or organic compounds.

Remote-controlled mechanical manipulators specially designed for handling highly radioactive substances:

- mechanical handling gear, fixed or mobile, but not being capable of being operated manually.

List B

(entry deleted)

Lithium ores and concentrates.

Nuclear-grade metals:

- crude beryllium,
- crude bismuth,
- crude niobium (columbium),
- crude zirconium (hafnium-free),
- crude lithium,
- crude aluminium,
- crude calcium,
- crude magnesium.

Boron trifluoride.

Anhydrous hydrofluoric acid.

Chlorine trifluoride.

Bromine trifluoride.

Lithium hydroxide.

Lithium fluoride.

Lithium chloride.

Lithium hydride.

Lithium carbonate.

Nuclear-grade beryllium oxide.

Refractory bricks of nuclear-grade beryllium oxide.

Other refractory products of nuclear-grade beryllium oxide.

Artificial graphite in the form of blocks or bars in which the boron content is less than or equal to one part per million and in which the total microscopic thermal neutron absorption cross-section is less than or equal to 5 millibarns.

Artificially separated stable isotopes.

Electromagnetic ion separators, including mass spectrographs and mass spectrometers.

Reactor simulators (special analog computers).

Remote-controlled mechanical manipulators:

— hand-controlled (i.e., operated manually like a tool).

Liquid-metal pumps.

High-vacuum pumps.

Heat exchangers specially designed for nuclear power stations.

Radiation detection instruments (and spare parts) of one of the following types, specially designed, or adaptable, for the detection of measurement of nuclear radiation, such as alpha and beta particles, gamma rays, neutrons and protons:

— Geiger counter tubes and proportional counters,

— detection or measuring instruments incorporating Geiger-Muller tubes or proportional counters,

— ionisation chambers,

- instruments incorporating ionisation chambers,
- radiation detection or measuring equipment for mineral prospecting and for reactor, air, water and soil monitoring,
- neutron detector tubes using boron, boron trifluoride, hydrogen or a fissile element,
- detection or measuring instruments incorporating neutron detector tubes using boron, boron trifluoride, hydrogen or a fissile element,
- scintillation crystals, mounted or in a metal casing (solid scintillators),
- detection or measuring instruments incorporating liquid, solid or gaseous scintillators,
- amplifiers specially designed for nuclear measurements, including linear amplifiers, preamplifiers, distributed amplifiers and pulse height analysers,
- coincidence devices for use with radiation detectors,
- electroscopes and electrometers, including dosimeters (but excluding instruments intended for instruction purposes, simple metal leaf electroscopes, dosimeters specially designed for use with medical X-ray equipment and electrostatic measuring instruments),
- instruments capable of measuring a current of less than one picoampere,
- photomultiplier tubes with a photocathode which gives a current of at least 10 microamperes per lumen and in which the average amplification is greater than 10^5 , and any other types of electric multiplier activated by positive ions,
- scalers and electronic integrating meters for the detection of radiation.

Cyclotrons, Van de Graaff or Cockcroft-Walton electrostatic generators, linear accelerators and other machines capable of imparting an energy greater than 1 MeV to nuclear particles.

Magnets specially designed and constructed for the abovementioned machines and equipment (cyclotrons, etc.).

Accelerating and focusing tubes of the type used in mass spectrometers and mass spectrographs.

Intense electronic sources of positive ions intended for use with particle accelerators, mass spectrometers and similar devices.

Anti-radiation plate glass:

- cast or rolled plate glass (including wired or flashed glass) in squares or rectangles, surface-ground or polished but not further worked,
- cast or rolled plate glass (whether or not ground or polished) cut to shape other than square or rectangular, or curved or otherwise worked (for example, bevelled or engraved),
- safety glass, consisting of toughened or laminated glass, shaped or not.

Airtight clothing affording protection against radiation or radioactive contamination:

- made of plastic,
- made of rubber,
- made of impregnated or coated fabric:
 - for men,
 - for women.

Diphenyl (when it is in fact the aromatic hydrocarbon $C_6H_5C_6H_5$).

Terphenyl.

ANNEX V

INITIAL RESEARCH AND TRAINING PROGRAMME REFERRED TO IN ARTICLE 215 OF THIS TREATY

(repealed)

PROTOCOLS

PROTOCOL ON THE ROLE OF NATIONAL PARLIAMENTS IN THE EUROPEAN UNION

THE HIGH CONTRACTING PARTIES,

RECALLING that the way in which national Parliaments scrutinise their governments in relation to the activities of the Union is a matter for the particular constitutional organisation and practice of each Member State,

DESIRING to encourage greater involvement of national Parliaments in the activities of the European Union and to enhance their ability to express their views on draft legislative acts of the Union as well as on other matters which may be of particular interest to them,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community:

TITLE I

INFORMATION FOR NATIONAL PARLIAMENTS

Article 1

Commission consultation documents (green and white papers and communications) shall be forwarded directly by the Commission to national Parliaments upon publication. The Commission shall also forward the annual legislative programme as well as any other instrument of legislative planning or policy to national Parliaments, at the same time as to the European Parliament and the Council.

Article 2

Draft legislative acts sent to the European Parliament and to the Council shall be forwarded to national Parliaments.

For the purposes of this Protocol, 'draft legislative acts' shall mean proposals from the Commission, initiatives from a group of Member States, initiatives from the European Parliament, requests from the Court of Justice, recommendations from the European Central Bank and requests from the European Investment Bank for the adoption of a legislative act.

Draft legislative acts originating from the Commission shall be forwarded to national Parliaments directly by the Commission, at the same time as to the European Parliament and the Council.

Draft legislative acts originating from the European Parliament shall be forwarded to national Parliaments directly by the European Parliament.

Draft legislative acts originating from a group of Member States, the Court of Justice, the European Central Bank or the European Investment Bank shall be forwarded to national Parliaments by the Council.

Article 3

National Parliaments may send to the Presidents of the European Parliament, the Council and the Commission a reasoned opinion on whether a draft legislative act complies with the principle of subsidiarity, in accordance with the procedure laid down in the Protocol on the application of the principles of subsidiarity and proportionality.

If the draft legislative act originates from a group of Member States, the President of the Council shall forward the reasoned opinion or opinions to the governments of those Member States.

If the draft legislative act originates from the Court of Justice, the European Central Bank or the European Investment Bank, the President of the Council shall forward the reasoned opinion or opinions to the institution or body concerned.

Article 4

An eight-week period shall elapse between a draft legislative act being made available to national Parliaments in the official languages of the Union and the date when it is placed on a provisional agenda for the Council for its adoption or for adoption of a position under a legislative procedure. Exceptions shall be possible in cases of urgency, the reasons for which shall be stated in the act or position of the Council. Save in urgent cases for which due reasons have been given, no agreement may be reached on a draft legislative act during those eight weeks. Save in urgent cases for which due reasons have been given, a ten-day period shall elapse between the placing of a draft legislative act on the provisional agenda for the Council and the adoption of a position.

Article 5

The agendas for and the outcome of meetings of the Council, including the minutes of meetings where the Council is deliberating on draft legislative acts, shall be forwarded directly to national Parliaments, at the same time as to Member States' governments.

Article 6

When the European Council intends to make use of the first or second subparagraphs of Article 48(7) of the Treaty on European Union, national Parliaments shall be informed of the initiative of the European Council at least six months before any decision is adopted.

Article 7

The Court of Auditors shall forward its annual report to national Parliaments, for information, at the same time as to the European Parliament and to the Council.

Article 8

Where the national Parliamentary system is not unicameral, Articles 1 to 7 shall apply to the component chambers.

TITLE II

INTERPARLIAMENTARY COOPERATION*Article 9*

The European Parliament and national Parliaments shall together determine the organisation and promotion of effective and regular interparliamentary cooperation within the Union.

Article 10

A conference of Parliamentary Committees for Union Affairs may submit any contribution it deems appropriate for the attention of the European Parliament, the Council and the Commission. That conference shall in addition promote the exchange of information and best practice between national Parliaments and the European Parliament, including their special committees. It may also organise interparliamentary conferences on specific topics, in particular to debate matters of common foreign and security policy, including common security and defence policy. Contributions from the conference shall not bind national Parliaments and shall not prejudice their positions.

PROTOCOL ON THE STATUTE OF THE COURT OF JUSTICE OF THE EUROPEAN UNION

THE HIGH CONTRACTING PARTIES,

DESIRING to lay down the Statute of the Court of Justice of the European Union provided for in Article 281 of the Treaty on the Functioning of the European Union,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community:

Article 1

The Court of Justice of the European Union shall be constituted and shall function in accordance with the provisions of the Treaties, of the Treaty establishing the European Atomic Energy Community (EAEC Treaty) and of this Statute.

TITLE I

JUDGES AND ADVOCATES-GENERAL

Article 2

Before taking up his duties each Judge shall, before the Court of Justice sitting in open court, take an oath to perform his duties impartially and conscientiously and to preserve the secrecy of the deliberations of the Court.

Article 3

The Judges shall be immune from legal proceedings. After they have ceased to hold office, they shall continue to enjoy immunity in respect of acts performed by them in their official capacity, including words spoken or written.

The Court of Justice, sitting as a full Court, may waive the immunity. If the decision concerns a member of the General Court or of a specialised court, the Court shall decide after consulting the court concerned.

Where immunity has been waived and criminal proceedings are instituted against a Judge, he shall be tried, in any of the Member States, only by the court competent to judge the members of the highest national judiciary.

Articles 11 to 14 and Article 17 of the Protocol on the privileges and immunities of the European Union shall apply to the Judges, Advocates-General, Registrar and Assistant Rapporteurs of the Court of Justice of the European Union, without prejudice to the provisions relating to immunity from legal proceedings of Judges which are set out in the preceding paragraphs.

Article 4

The Judges may not hold any political or administrative office.

They may not engage in any occupation, whether gainful or not, unless exemption is exceptionally granted by the Council, acting by a simple majority.

When taking up their duties, they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom, in particular the duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits.

Any doubt on this point shall be settled by decision of the Court of Justice. If the decision concerns a member of the General Court or of a specialised court, the Court shall decide after consulting the court concerned.

Article 5

Apart from normal replacement, or death, the duties of a Judge shall end when he resigns.

Where a Judge resigns, his letter of resignation shall be addressed to the President of the Court of Justice for transmission to the President of the Council. Upon this notification a vacancy shall arise on the bench.

Save where Article 6 applies, a Judge shall continue to hold office until his successor takes up his duties.

Article 6

A Judge may be deprived of his office or of his right to a pension or other benefits in its stead only if, in the unanimous opinion of the Judges and Advocates-General of the Court of Justice, he no longer fulfils the requisite conditions or meets the obligations arising from his office. The Judge concerned shall not take part in any such deliberations. If the person concerned is a member of the General Court or of a specialised court, the Court shall decide after consulting the court concerned.

The Registrar of the Court shall communicate the decision of the Court to the President of the European Parliament and to the President of the Commission and shall notify it to the President of the Council.

In the case of a decision depriving a Judge of his office, a vacancy shall arise on the bench upon this latter notification.

Article 7

A Judge who is to replace a member of the Court whose term of office has not expired shall be appointed for the remainder of his predecessor's term.

Article 8

The provisions of Articles 2 to 7 shall apply to the Advocates-General.

TITLE II

ORGANISATION OF THE COURT OF JUSTICE*Article 9*

When, every three years, the Judges are partially replaced, 14 and 13 Judges shall be replaced alternately.

When, every three years, the Advocates-General are partially replaced, four Advocates-General shall be replaced on each occasion.

Article 10

The Registrar shall take an oath before the Court of Justice to perform his duties impartially and conscientiously and to preserve the secrecy of the deliberations of the Court of Justice.

Article 11

The Court of Justice shall arrange for replacement of the Registrar on occasions when he is prevented from attending the Court of Justice.

Article 12

Officials and other servants shall be attached to the Court of Justice to enable it to function. They shall be responsible to the Registrar under the authority of the President.

Article 13

At the request of the Court of Justice, the European Parliament and the Council may, acting in accordance with the ordinary legislative procedure, provide for the appointment of Assistant Rapporteurs and lay down the rules governing their service. The Assistant Rapporteurs may be required, under conditions laid down in the Rules of Procedure, to participate in preparatory inquiries in cases pending before the Court and to cooperate with the Judge who acts as Rapporteur.

The Assistant Rapporteurs shall be chosen from persons whose independence is beyond doubt and who possess the necessary legal qualifications; they shall be appointed by the Council, acting by a simple majority. They shall take an oath before the Court to perform their duties impartially and conscientiously and to preserve the secrecy of the deliberations of the Court.

Article 14

The Judges, the Advocates-General and the Registrar shall be required to reside at the place where the Court of Justice has its seat.

Article 15

The Court of Justice shall remain permanently in session. The duration of the judicial vacations shall be determined by the Court with due regard to the needs of its business.

Article 16

The Court of Justice shall form chambers consisting of three and five Judges. The Judges shall elect the Presidents of the chambers from among their number. The Presidents of the chambers of five Judges shall be elected for three years. They may be re-elected once.

The Grand Chamber shall consist of 13 Judges. It shall be presided over by the President of the Court. The Presidents of the chambers of five Judges and other Judges appointed in accordance with the conditions laid down in the Rules of Procedure shall also form part of the Grand Chamber.

The Court shall sit in a Grand Chamber when a Member State or an institution of the Union that is party to the proceedings so requests.

The Court shall sit as a full Court where cases are brought before it pursuant to Article 228(2), Article 245(2), Article 247 or Article 286(6) of the Treaty on the Functioning of the European Union.

Moreover, where it considers that a case before it is of exceptional importance, the Court may decide, after hearing the Advocate-General, to refer the case to the full Court.

Article 17

Decisions of the Court of Justice shall be valid only when an uneven number of its members is sitting in the deliberations.

Decisions of the chambers consisting of either three or five Judges shall be valid only if they are taken by three Judges.

Decisions of the Grand Chamber shall be valid only if nine Judges are sitting.

Decisions of the full Court shall be valid only if 15 Judges are sitting.

In the event of one of the Judges of a chamber being prevented from attending, a Judge of another chamber may be called upon to sit in accordance with conditions laid down in the Rules of Procedure.

Article 18

No Judge or Advocate-General may take part in the disposal of any case in which he has previously taken part as agent or adviser or has acted for one of the parties, or in which he has been called upon to pronounce as a member of a court or tribunal, of a commission of inquiry or in any other capacity.

If, for some special reason, any Judge or Advocate-General considers that he should not take part in the judgment or examination of a particular case, he shall so inform the President. If, for some special reason, the President considers that any Judge or Advocate-General should not sit or make submissions in a particular case, he shall notify him accordingly.

Any difficulty arising as to the application of this Article shall be settled by decision of the Court of Justice.

A party may not apply for a change in the composition of the Court or of one of its chambers on the grounds of either the nationality of a Judge or the absence from the Court or from the chamber of a Judge of the nationality of that party.

TITLE III

PROCEDURE BEFORE THE COURT OF JUSTICE

Article 19

The Member States and the institutions of the Union shall be represented before the Court of Justice by an agent appointed for each case; the agent may be assisted by an adviser or by a lawyer.

The States, other than the Member States, which are parties to the Agreement on the European Economic Area and also the EFTA Surveillance Authority referred to in that Agreement shall be represented in same manner.

Other parties must be represented by a lawyer.

Only a lawyer authorised to practise before a court of a Member State or of another State which is a party to the Agreement on the European Economic Area may represent or assist a party before the Court.

Such agents, advisers and lawyers shall, when they appear before the Court, enjoy the rights and immunities necessary to the independent exercise of their duties, under conditions laid down in the Rules of Procedure.

As regards such advisers and lawyers who appear before it, the Court shall have the powers normally accorded to courts of law, under conditions laid down in the Rules of Procedure.

University teachers being nationals of a Member State whose law accords them a right of audience shall have the same rights before the Court as are accorded by this Article to lawyers.

Article 20

The procedure before the Court of Justice shall consist of two parts: written and oral.

The written procedure shall consist of the communication to the parties and to the institutions of the Union whose decisions are in dispute, of applications, statements of case, defences and observations, and of replies, if any, as well as of all papers and documents in support or of certified copies of them.

Communications shall be made by the Registrar in the order and within the time laid down in the Rules of Procedure.

The oral procedure shall consist of the reading of the report presented by a Judge acting as Rapporteur, the hearing by the Court of agents, advisers and lawyers and of the submissions of the Advocate-General, as well as the hearing, if any, of witnesses and experts.

Where it considers that the case raises no new point of law, the Court may decide, after hearing the Advocate-General, that the case shall be determined without a submission from the Advocate-General.

Article 21

A case shall be brought before the Court of Justice by a written application addressed to the Registrar. The application shall contain the applicant's name and permanent address and the description of the signatory, the name of the party or names of the parties against whom the application is made, the subject-matter of the dispute, the form of order sought and a brief statement of the pleas in law on which the application is based.

The application shall be accompanied, where appropriate, by the measure the annulment of which is sought or, in the circumstances referred to in Article 265 of the Treaty on the Functioning of the European Union, by documentary evidence of the date on which an institution was, in accordance with those Articles, requested to act. If the documents are not submitted with the application, the Registrar shall ask the party concerned to produce them within a reasonable period, but in that event the rights of the party shall not lapse even if such documents are produced after the time limit for bringing proceedings.

Article 22

A case governed by Article 18 of the EAEC Treaty shall be brought before the Court of Justice by an appeal addressed to the Registrar. The appeal shall contain the name and permanent address of the applicant and the description of the signatory, a reference to the decision against which the appeal is brought, the names of the respondents, the subject-matter of the dispute, the submissions and a brief statement of the grounds on which the appeal is based.

The appeal shall be accompanied by a certified copy of the decision of the Arbitration Committee which is contested.

If the Court rejects the appeal, the decision of the Arbitration Committee shall become final.

If the Court annuls the decision of the Arbitration Committee, the matter may be re-opened, where appropriate, on the initiative of one of the parties in the case, before the Arbitration Committee. The latter shall conform to any decisions on points of law given by the Court.

Article 23

In the cases governed by Article 267 of the Treaty on the Functioning of the European Union, the decision of the court or tribunal of a Member State which suspends its proceedings and refers a case to the Court of Justice shall be notified to the Court by the court or tribunal concerned. The decision shall then be notified by the Registrar of the Court to the parties, to the Member States and to the Commission, and to the institution, body, office or agency of the Union which adopted the act the validity or interpretation of which is in dispute.

Within two months of this notification, the parties, the Member States, the Commission and, where appropriate, the institution, body, office or agency which adopted the act the validity or interpretation of which is in dispute, shall be entitled to submit statements of case or written observations to the Court.

In the cases governed by Article 267 of the Treaty on the Functioning of the European Union, the decision of the national court or tribunal shall, moreover, be notified by the Registrar of the Court to the States, other than the Member States, which are parties to the Agreement on the European Economic Area and also to the EFTA Surveillance Authority referred to in that Agreement which may, within two months of notification, where one of the fields of application of that Agreement is concerned, submit statements of case or written observations to the Court.

Where an agreement relating to a specific subject matter, concluded by the Council and one or more non-member States, provides that those States are to be entitled to submit statements of case or written observations where a court or tribunal of a Member State refers to the Court of Justice for a preliminary ruling a question falling within the scope of the agreement, the decision of the national court or tribunal containing that question shall also be notified to the non-member States concerned. Within two months from such notification, those States may lodge at the Court statements of case or written observations.

Article 23a ()*

The Rules of Procedure may provide for an expedited or accelerated procedure and, for references for a preliminary ruling relating to the area of freedom, security and justice, an urgent procedure.

Those procedures may provide, in respect of the submission of statements of case or written observations, for a shorter period than that provided for by Article 23, and, in derogation from the fourth paragraph of Article 20, for the case to be determined without a submission from the Advocate General.

(*) Article inserted by Decision 2008/79/EC, Euratom (OJ L 24, 29.1.2008, p. 42).

In addition, the urgent procedure may provide for restriction of the parties and other interested persons mentioned in Article 23, authorised to submit statements of case or written observations and, in cases of extreme urgency, for the written stage of the procedure to be omitted.

Article 24

The Court of Justice may require the parties to produce all documents and to supply all information which the Court considers desirable. Formal note shall be taken of any refusal.

The Court may also require the Member States and institutions, bodies, offices and agencies not being parties to the case to supply all information which the Court considers necessary for the proceedings.

Article 25

The Court of Justice may at any time entrust any individual, body, authority, committee or other organisation it chooses with the task of giving an expert opinion.

Article 26

Witnesses may be heard under conditions laid down in the Rules of Procedure.

Article 27

With respect to defaulting witnesses the Court of Justice shall have the powers generally granted to courts and tribunals and may impose pecuniary penalties under conditions laid down in the Rules of Procedure.

Article 28

Witnesses and experts may be heard on oath taken in the form laid down in the Rules of Procedure or in the manner laid down by the law of the country of the witness or expert.

Article 29

The Court of Justice may order that a witness or expert be heard by the judicial authority of his place of permanent residence.

The order shall be sent for implementation to the competent judicial authority under conditions laid down in the Rules of Procedure. The documents drawn up in compliance with the letters rogatory shall be returned to the Court under the same conditions.

The Court shall defray the expenses, without prejudice to the right to charge them, where appropriate, to the parties.

Article 30

A Member State shall treat any violation of an oath by a witness or expert in the same manner as if the offence had been committed before one of its courts with jurisdiction in civil proceedings. At the instance of the Court of Justice, the Member State concerned shall prosecute the offender before its competent court.

Article 31

The hearing in court shall be public, unless the Court of Justice, of its own motion or on application by the parties, decides otherwise for serious reasons.

Article 32

During the hearings the Court of Justice may examine the experts, the witnesses and the parties themselves. The latter, however, may address the Court of Justice only through their representatives.

Article 33

Minutes shall be made of each hearing and signed by the President and the Registrar.

Article 34

The case list shall be established by the President.

Article 35

The deliberations of the Court of Justice shall be and shall remain secret.

Article 36

Judgments shall state the reasons on which they are based. They shall contain the names of the Judges who took part in the deliberations.

Article 37

Judgments shall be signed by the President and the Registrar. They shall be read in open court.

Article 38

The Court of Justice shall adjudicate upon costs.

Article 39

The President of the Court of Justice may, by way of summary procedure, which may, in so far as necessary, differ from some of the rules contained in this Statute and which shall be laid down in the Rules of Procedure, adjudicate upon applications to suspend execution, as provided for in Article 278 of the Treaty on the Functioning of the European Union and Article 157 of the EAEC Treaty, or to prescribe interim measures pursuant to Article 279 of the Treaty on the Functioning of the European Union, or to suspend enforcement in accordance with the fourth paragraph of Article 299 of the Treaty on the Functioning of the European Union or the third paragraph of Article 164 of the EAEC Treaty.

Should the President be prevented from attending, his place shall be taken by another Judge under conditions laid down in the Rules of Procedure.

The ruling of the President or of the Judge replacing him shall be provisional and shall in no way prejudice the decision of the Court on the substance of the case.

Article 40

Member States and institutions of the Union may intervene in cases before the Court of Justice.

The same right shall be open to the bodies, offices and agencies of the Union and to any other person which can establish an interest in the result of a case submitted to the Court. Natural or legal persons shall not intervene in cases between Member States, between institutions of the Union or between Member States and institutions of the Union.

Without prejudice to the second paragraph, the States, other than the Member States, which are parties to the Agreement on the European Economic Area, and also the EFTA Surveillance Authority referred to in that Agreement, may intervene in cases before the Court where one of the fields of application of that Agreement is concerned.

An application to intervene shall be limited to supporting the form of order sought by one of the parties.

Article 41

Where the defending party, after having been duly summoned, fails to file written submissions in defence, judgment shall be given against that party by default. An objection may be lodged against the judgment within one month of it being notified. The objection shall not have the effect of staying enforcement of the judgment by default unless the Court of Justice decides otherwise.

Article 42

Member States, institutions, bodies, offices and agencies of the Union and any other natural or legal persons may, in cases and under conditions to be determined by the Rules of Procedure, institute third-party proceedings to contest a judgment rendered without their being heard, where the judgment is prejudicial to their rights.

Article 43

If the meaning or scope of a judgment is in doubt, the Court of Justice shall construe it on application by any party or any institution of the Union establishing an interest therein.

Article 44

An application for revision of a judgment may be made to the Court of Justice only on discovery of a fact which is of such a nature as to be a decisive factor, and which, when the judgment was given, was unknown to the Court and to the party claiming the revision.

The revision shall be opened by a judgment of the Court expressly recording the existence of a new fact, recognising that it is of such a character as to lay the case open to revision and declaring the application admissible on this ground.

No application for revision may be made after the lapse of 10 years from the date of the judgment.

Article 45

Periods of grace based on considerations of distance shall be determined by the Rules of Procedure.

No right shall be prejudiced in consequence of the expiry of a time limit if the party concerned proves the existence of unforeseeable circumstances or of *force majeure*.

Article 46

Proceedings against the Union in matters arising from non-contractual liability shall be barred after a period of five years from the occurrence of the event giving rise thereto. The period of limitation shall be interrupted if proceedings are instituted before the Court of Justice or if prior to such proceedings an application is made by the aggrieved party to the relevant institution of the Union. In the latter event the proceedings must be instituted within the period of two months provided for in Article 263 of the Treaty on the Functioning of the European Union; the provisions of the second paragraph of Article 265 of the Treaty on the Functioning of the European Union shall apply where appropriate.

This Article shall also apply to proceedings against the European Central Bank regarding non-contractual liability.

TITLE IV

GENERAL COURT

Article 47

The first paragraph of Article 9, Articles 14 and 15, the first, second, fourth and fifth paragraphs of Article 17 and Article 18 shall apply to the General Court and its members.

The fourth paragraph of Article 3 and Articles 10, 11 and 14 shall apply to the Registrar of the General Court *mutatis mutandis*.

Article 48

The General Court shall consist of 27 Judges.

Article 49

The Members of the General Court may be called upon to perform the task of an Advocate-General.

It shall be the duty of the Advocate-General, acting with complete impartiality and independence, to make, in open court, reasoned submissions on certain cases brought before the General Court in order to assist the General Court in the performance of its task.

The criteria for selecting such cases, as well as the procedures for designating the Advocates-General, shall be laid down in the Rules of Procedure of the General Court.

A Member called upon to perform the task of Advocate-General in a case may not take part in the judgment of the case.

Article 50

The General Court shall sit in chambers of three or five Judges. The Judges shall elect the Presidents of the chambers from among their number. The Presidents of the chambers of five Judges shall be elected for three years. They may be re-elected once.

The composition of the chambers and the assignment of cases to them shall be governed by the Rules of Procedure. In certain cases governed by the Rules of Procedure, the General Court may sit as a full court or be constituted by a single Judge.

The Rules of Procedure may also provide that the General Court may sit in a Grand Chamber in cases and under the conditions specified therein.

Article 51

By way of derogation from the rule laid down in Article 256(1) of the Treaty on the Functioning of the European Union, jurisdiction shall be reserved to the Court of Justice in the actions referred to in Articles 263 and 265 of the Treaty on the Functioning of the European Union when they are brought by a Member State against:

- (a) an act of or failure to act by the European Parliament or the Council, or by those institutions acting jointly, except for:
 - decisions taken by the Council under the third subparagraph of Article 108(2) of the Treaty on the Functioning of the European Union;
 - acts of the Council adopted pursuant to a Council regulation concerning measures to protect trade within the meaning of Article 207 of the Treaty on the Functioning of the European Union;
 - acts of the Council by which the Council exercises implementing powers in accordance with the second paragraph of Article 291 of the Treaty on the Functioning of the European Union;

(b) against an act of or failure to act by the Commission under the first paragraph of Article 331 of the Treaty on the Functioning of the European Union.

Jurisdiction shall also be reserved to the Court of Justice in the actions referred to in the same Articles when they are brought by an institution of the Union against an act of or failure to act by the European Parliament, the Council, both those institutions acting jointly, or the Commission, or brought by an institution of the Union against an act of or failure to act by the European Central Bank.

Article 52

The President of the Court of Justice and the President of the General Court shall determine, by common accord, the conditions under which officials and other servants attached to the Court shall render their services to the General Court to enable it to function. Certain officials or other servants shall be responsible to the Registrar of the General Court under the authority of the President of the General Court.

Article 53

The procedure before the General Court shall be governed by Title III.

Such further and more detailed provisions as may be necessary shall be laid down in its Rules of Procedure. The Rules of Procedure may derogate from the fourth paragraph of Article 40 and from Article 41 in order to take account of the specific features of litigation in the field of intellectual property.

Notwithstanding the fourth paragraph of Article 20, the Advocate-General may make his reasoned submissions in writing.

Article 54

Where an application or other procedural document addressed to the General Court is lodged by mistake with the Registrar of the Court of Justice, it shall be transmitted immediately by that Registrar to the Registrar of the General Court; likewise, where an application or other procedural document addressed to the Court of Justice is lodged by mistake with the Registrar of the General Court, it shall be transmitted immediately by that Registrar to the Registrar of the Court of Justice.

Where the General Court finds that it does not have jurisdiction to hear and determine an action in respect of which the Court of Justice has jurisdiction, it shall refer that action to the Court of Justice; likewise, where the Court of Justice finds that an action falls within the jurisdiction of the General Court, it shall refer that action to the General Court, whereupon that Court may not decline jurisdiction.

Where the Court of Justice and the General Court are seised of cases in which the same relief is sought, the same issue of interpretation is raised or the validity of the same act is called in question, the General Court may, after hearing the parties, stay the proceedings before it until such time as the Court of Justice has delivered judgment or, where the action is one brought pursuant to Article 263 of the Treaty on the Functioning of the European Union, may decline jurisdiction so as to allow the Court of Justice to rule on such actions. In the same circumstances, the Court of Justice may also decide to stay the proceedings before it; in that event, the proceedings before the General Court shall continue.

Where a Member State and an institution of the Union are challenging the same act, the General Court shall decline jurisdiction so that the Court of Justice may rule on those applications.

Article 55

Final decisions of the General Court, decisions disposing of the substantive issues in part only or disposing of a procedural issue concerning a plea of lack of competence or inadmissibility, shall be notified by the Registrar of the General Court to all parties as well as all Member States and the institutions of the Union even if they did not intervene in the case before the General Court.

Article 56

An appeal may be brought before the Court of Justice, within two months of the notification of the decision appealed against, against final decisions of the General Court and decisions of that Court disposing of the substantive issues in part only or disposing of a procedural issue concerning a plea of lack of competence or inadmissibility.

Such an appeal may be brought by any party which has been unsuccessful, in whole or in part, in its submissions. However, interveners other than the Member States and the institutions of the Union may bring such an appeal only where the decision of the General Court directly affects them.

With the exception of cases relating to disputes between the Union and its servants, an appeal may also be brought by Member States and institutions of the Union which did not intervene in the proceedings before the General Court. Such Member States and institutions shall be in the same position as Member States or institutions which intervened at first instance.

Article 57

Any person whose application to intervene has been dismissed by the General Court may appeal to the Court of Justice within two weeks from the notification of the decision dismissing the application.

The parties to the proceedings may appeal to the Court of Justice against any decision of the General Court made pursuant to Article 278 or Article 279 or the fourth paragraph of Article 299 of the Treaty on the Functioning of the European Union or Article 157 or the third paragraph of Article 164 of the EAEC Treaty within two months from their notification.

The appeal referred to in the first two paragraphs of this Article shall be heard and determined under the procedure referred to in Article 39.

Article 58

An appeal to the Court of Justice shall be limited to points of law. It shall lie on the grounds of lack of competence of the General Court, a breach of procedure before it which adversely affects the interests of the appellant as well as the infringement of Union law by the General Court.

No appeal shall lie regarding only the amount of the costs or the party ordered to pay them.

Article 59

Where an appeal is brought against a decision of the General Court, the procedure before the Court of Justice shall consist of a written part and an oral part. In accordance with conditions laid down in the Rules of Procedure, the Court of Justice, having heard the Advocate-General and the parties, may dispense with the oral procedure.

Article 60

Without prejudice to Articles 278 and 279 of the Treaty on the Functioning of the European Union or Article 157 of the EAEC Treaty, an appeal shall not have suspensory effect.

By way of derogation from Article 280 of the Treaty on the Functioning of the European Union, decisions of the General Court declaring a regulation to be void shall take effect only as from the date of expiry of the period referred to in the first paragraph of Article 56 of this Statute or, if an appeal shall have been brought within that period, as from the date of dismissal of the appeal, without prejudice, however, to the right of a party to apply to the Court of Justice, pursuant to Articles 278 and 279 of the Treaty on the Functioning of the European Union or Article 157 of the EAEC Treaty, for the suspension of the effects of the regulation which has been declared void or for the prescription of any other interim measure.

Article 61

If the appeal is well founded, the Court of Justice shall quash the decision of the General Court. It may itself give final judgment in the matter, where the state of the proceedings so permits, or refer the case back to the General Court for judgment.

Where a case is referred back to the General Court, that Court shall be bound by the decision of the Court of Justice on points of law.

When an appeal brought by a Member State or an institution of the Union, which did not intervene in the proceedings before the General Court, is well founded, the Court of Justice may, if it considers this necessary, state which of the effects of the decision of the General Court which has been quashed shall be considered as definitive in respect of the parties to the litigation.

Article 62

In the cases provided for in Article 256(2) and (3) of the Treaty on the Functioning of the European Union, where the First Advocate-General considers that there is a serious risk of the unity or consistency of Union law being affected, he may propose that the Court of Justice review the decision of the General Court.

The proposal must be made within one month of delivery of the decision by the General Court. Within one month of receiving the proposal made by the First Advocate-General, the Court of Justice shall decide whether or not the decision should be reviewed.

Article 62a

The Court of Justice shall give a ruling on the questions which are subject to review by means of an urgent procedure on the basis of the file forwarded to it by the General Court.

Those referred to in Article 23 of this Statute and, in the cases provided for in Article 256(2) of the EC Treaty, the parties to the proceedings before the General Court shall be entitled to lodge statements or written observations with the Court of Justice relating to questions which are subject to review within a period prescribed for that purpose.

The Court of Justice may decide to open the oral procedure before giving a ruling.

Article 62b

In the cases provided for in Article 256(2) of the Treaty on the Functioning of the European Union, without prejudice to Articles 278 and 279 of the Treaty on the Functioning of the European Union, proposals for review and decisions to open the review procedure shall not have suspensory effect. If the Court of Justice finds that the decision of the General Court affects the unity or consistency of Union law, it shall refer the case back to the General Court which shall be bound by the points of law decided by the Court of Justice; the Court of Justice may state which of the effects of the decision of the General Court are to be considered as definitive in respect of the parties to the litigation. If, however, having regard to the result of the review, the outcome of the proceedings flows from the findings of fact on which the decision of the General Court was based, the Court of Justice shall give final judgment.

In the cases provided for in Article 256(3) of the Treaty on the Functioning of the European Union, in the absence of proposals for review or decisions to open the review procedure, the answer(s) given by the General Court to the questions submitted to it shall take effect upon expiry of the periods prescribed for that purpose in the second paragraph of Article 62. Should a review procedure be opened, the answer(s) subject to review shall take effect following that procedure, unless the Court of Justice decides otherwise. If the Court of Justice finds that the decision of the General Court affects the unity or consistency of Union law, the answer given by the Court of Justice to the questions subject to review shall be substituted for that given by the General Court.

TITLE IVa

SPECIALISED COURTS*Article 62c*

The provisions relating to the jurisdiction, composition, organisation and procedure of the specialised courts established under Article 257 of the Treaty on the Functioning of the European Union are set out in an Annex to this Statute.

TITLE V

FINAL PROVISIONS*Article 63*

The Rules of Procedure of the Court of Justice and of the General Court shall contain any provisions necessary for applying and, where required, supplementing this Statute.

Article 64

The rules governing the language arrangements applicable at the Court of Justice of the European Union shall be laid down by a regulation of the Council acting unanimously. This regulation shall be adopted either at the request of the Court of Justice and after consultation of the Commission and the European Parliament, or on a proposal from the Commission and after consultation of the Court of Justice and of the European Parliament.

Until those rules have been adopted, the provisions of the Rules of Procedure of the Court of Justice and of the Rules of Procedure of the General Court governing language arrangements shall continue to apply. By way of derogation from Articles 253 and 254 of the Treaty on the Functioning of the European Union, those provisions may only be amended or repealed with the unanimous consent of the Council.

ANNEX I

THE EUROPEAN UNION CIVIL SERVICE TRIBUNAL*Article 1*

The European Union Civil Service Tribunal (hereafter 'the Civil Service Tribunal') shall exercise at first instance jurisdiction in disputes between the Union and its servants referred to in Article 270 of the Treaty on the Functioning of the European Union, including disputes between all bodies or agencies and their servants in respect of which jurisdiction is conferred on the Court of Justice of the European Union.

Article 2

The Civil Service Tribunal shall consist of seven judges. Should the Court of Justice so request, the Council, acting by a qualified majority, may increase the number of judges.

The judges shall be appointed for a period of six years. Retiring judges may be reappointed.

Any vacancy shall be filled by the appointment of a new judge for a period of six years.

Article 3

1. The judges shall be appointed by the Council, acting in accordance with the fourth paragraph of Article 257 of the Treaty on the Functioning of the European Union, after consulting the committee provided for by this Article. When appointing judges, the Council shall ensure a balanced composition of the Civil Service Tribunal on as broad a geographical basis as possible from among nationals of the Member States and with respect to the national legal systems represented.

2. Any person who is a Union citizen and fulfils the conditions laid down in the fourth paragraph of Article 257 of the Treaty on the Functioning of the European Union may submit an application. The Council, acting on a recommendation from the Court of Justice, shall determine the conditions and the arrangements governing the submission and processing of such applications.

3. A committee shall be set up comprising seven persons chosen from among former members of the Court of Justice and the General Court and lawyers of recognised competence. The committee's membership and operating rules shall be determined by the Council, acting on a recommendation by the President of the Court of Justice.

4. The committee shall give an opinion on candidates' suitability to perform the duties of judge at the Civil Service Tribunal. The committee shall append to its opinion a list of candidates having the most suitable high-level experience. Such list shall contain the names of at least twice as many candidates as there are judges to be appointed by the Council.

Article 4

1. The judges shall elect the President of the Civil Service Tribunal from among their number for a term of three years. He may be re-elected.

2. The Civil Service Tribunal shall sit in chambers of three judges. It may, in certain cases determined by its Rules of Procedure, sit in full court or in a chamber of five judges or of a single judge.

3. The President of the Civil Service Tribunal shall preside over the full court and the chamber of five judges. The Presidents of the chambers of three judges shall be designated as provided in paragraph 1. If the President of the Civil Service Tribunal is assigned to a chamber of three judges, he shall preside over that chamber.

4. The jurisdiction of and quorum for the full court as well as the composition of the chambers and the assignment of cases to them shall be governed by the Rules of Procedure.

Article 5

Articles 2 to 6, 14, 15, the first, second and fifth paragraphs of Article 17, and Article 18 of the Statute of the Court of Justice of the European Union shall apply to the Civil Service Tribunal and its members.

The oath referred to in Article 2 of the Statute shall be taken before the Court of Justice, and the decisions referred to in Articles 3, 4 and 6 thereof shall be adopted by the Court of Justice after consulting the Civil Service Tribunal.

Article 6

1. The Civil Service Tribunal shall be supported by the departments of the Court of Justice and of the General Court. The President of the Court of Justice or, in appropriate cases, the President of the General Court, shall determine by common accord with the President of the Civil Service Tribunal the conditions under which officials and other servants attached to the Court of Justice or the General Court shall render their services to the Civil Service Tribunal to enable it to function. Certain officials or other servants shall be responsible to the Registrar of the Civil Service Tribunal under the authority of the President of that Tribunal.

2. The Civil Service Tribunal shall appoint its Registrar and lay down the rules governing his service. The fourth paragraph of Article 3 and Articles 10, 11 and 14 of the Statute of the Court of Justice of the European Union shall apply to the Registrar of the Tribunal.

Article 7

1. The procedure before the Civil Service Tribunal shall be governed by Title III of the Statute of the Court of Justice of the European Union, with the exception of Articles 22 and 23. Such further and more detailed provisions as may be necessary shall be laid down in the Rules of Procedure.

2. The provisions concerning the General Court's language arrangements shall apply to the Civil Service Tribunal.

3. The written stage of the procedure shall comprise the presentation of the application and of the statement of defence, unless the Civil Service Tribunal decides that a second exchange of written pleadings is necessary. Where there is such second exchange, the Civil Service Tribunal may, with the agreement of the parties, decide to proceed to judgment without an oral procedure.

4. At all stages of the procedure, including the time when the application is filed, the Civil Service Tribunal may examine the possibilities of an amicable settlement of the dispute and may try to facilitate such settlement.

5. The Civil Service Tribunal shall rule on the costs of a case. Subject to the specific provisions of the Rules of Procedure, the unsuccessful party shall be ordered to pay the costs should the court so decide.

Article 8

1. Where an application or other procedural document addressed to the Civil Service Tribunal is lodged by mistake with the Registrar of the Court of Justice or General Court, it shall be transmitted immediately by that Registrar to the Registrar of the Civil Service Tribunal. Likewise, where an application or other procedural document addressed to the Court of Justice or to the General Court is lodged by mistake with the Registrar of the Civil Service Tribunal, it shall be transmitted immediately by that Registrar to the Registrar of the Court of Justice or General Court.

2. Where the Civil Service Tribunal finds that it does not have jurisdiction to hear and determine an action in respect of which the Court of Justice or the General Court has jurisdiction, it shall refer that action to the Court of Justice or to the General Court. Likewise, where the Court of Justice or the General Court finds that an action falls within the jurisdiction of the Civil Service Tribunal, the Court seised shall refer that action to the Civil Service Tribunal, whereupon that Tribunal may not decline jurisdiction.

3. Where the Civil Service Tribunal and the General Court are seised of cases in which the same issue of interpretation is raised or the validity of the same act is called in question, the Civil Service Tribunal, after hearing the parties, may stay the proceedings until the judgment of the General Court has been delivered.

Where the Civil Service Tribunal and the General Court are seised of cases in which the same relief is sought, the Civil Service Tribunal shall decline jurisdiction so that the General Court may act on those cases.

Article 9

An appeal may be brought before the General Court, within two months of notification of the decision appealed against, against final decisions of the Civil Service Tribunal and decisions of that Tribunal disposing of the substantive issues in part only or disposing of a procedural issue concerning a plea of lack of jurisdiction or inadmissibility.

Such an appeal may be brought by any party which has been unsuccessful, in whole or in part, in its submissions. However, interveners other than the Member States and the institutions of the Union may bring such an appeal only where the decision of the Civil Service Tribunal directly affects them.

Article 10

1. Any person whose application to intervene has been dismissed by the Civil Service Tribunal may appeal to the General Court within two weeks of notification of the decision dismissing the application.

2. The parties to the proceedings may appeal to the General Court against any decision of the Civil Service Tribunal made pursuant to Article 278 or Article 279 or the fourth paragraph of Article 299 of the Treaty on the Functioning of the European Union or Article 157 or the third paragraph of Article 164 of the EAEC Treaty within two months of its notification.

3. The President of the General Court may, by way of summary procedure, which may, in so far as necessary, differ from some of the rules contained in this Annex and which shall be laid down in the Rules of Procedure of the General Court, adjudicate upon appeals brought in accordance with paragraphs 1 and 2.

Article 11

1. An appeal to the General Court shall be limited to points of law. It shall lie on the grounds of lack of jurisdiction of the Civil Service Tribunal, a breach of procedure before it which adversely affects the interests of the appellant, as well as the infringement of Union law by the Tribunal.
2. No appeal shall lie regarding only the amount of the costs or the party ordered to pay them.

Article 12

1. Without prejudice to Articles 278 and 279 of the Treaty on the Functioning of the European Union or Article 157 of the EAEC Treaty, an appeal before the General Court shall not have suspensory effect.
2. Where an appeal is brought against a decision of the Civil Service Tribunal, the procedure before the General Court shall consist of a written part and an oral part. In accordance with conditions laid down in the Rules of Procedure, the General Court, having heard the parties, may dispense with the oral procedure.

Article 13

1. If the appeal is well founded, the General Court shall quash the decision of the Civil Service Tribunal and itself give judgment in the matter. It shall refer the case back to the Civil Service Tribunal for judgment where the state of the proceedings does not permit a decision by the Court.
 2. Where a case is referred back to the Civil Service Tribunal, the Tribunal shall be bound by the decision of the General Court on points of law.
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PROTOCOL ON THE LOCATION OF THE SEATS OF THE INSTITUTIONS AND OF CERTAIN BODIES, OFFICES, AGENCIES AND DEPARTMENTS OF THE EUROPEAN UNION

THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES,

HAVING REGARD to Article 341 of the Treaty on the Functioning of the European Union and Article 189 of the Treaty establishing the European Atomic Energy Community,

RECALLING AND CONFIRMING the Decision of 8 April 1965, and without prejudice to the decisions concerning the seat of future institutions, bodies, offices, agencies and departments,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and to the Treaty establishing the European Atomic Energy Community:

Sole Article

- (a) The European Parliament shall have its seat in Strasbourg where the 12 periods of monthly plenary sessions, including the budget session, shall be held. The periods of additional plenary sessions shall be held in Brussels. The committees of the European Parliament shall meet in Brussels. The General Secretariat of the European Parliament and its departments shall remain in Luxembourg.
 - (b) The Council shall have its seat in Brussels. During the months of April, June and October, the Council shall hold its meetings in Luxembourg.
 - (c) The Commission shall have its seat in Brussels. The departments listed in Articles 7, 8 and 9 of the Decision of 8 April 1965 shall be established in Luxembourg.
 - (d) The Court of Justice of the European Union shall have its seat in Luxembourg.
 - (e) The Court of Auditors shall have its seat in Luxembourg.
 - (f) The Economic and Social Committee shall have its seat in Brussels.
 - (g) The Committee of the Regions shall have its seat in Brussels.
 - (h) The European Investment Bank shall have its seat in Luxembourg.
 - (i) The European Central Bank shall have its seat in Frankfurt.
 - (j) The European Police Office (Europol) shall have its seat in The Hague.
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PROTOCOL ON THE PRIVILEGES AND IMMUNITIES OF THE EUROPEAN UNION

THE HIGH CONTRACTING PARTIES,

CONSIDERING that, in accordance with Article 343 of the Treaty on the Functioning of the European Union and Article 191 of the Treaty establishing the European Atomic Energy Community ('EAEC'), the European Union and the EAEC shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of their tasks,

HAVE AGREED upon the following provisions, which shall be annexed to the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community:

CHAPTER I

Property, funds, assets and operations of the European Union

Article 1

The premises and buildings of the Union shall be inviolable. They shall be exempt from search, requisition, confiscation or expropriation. The property and assets of the Union shall not be the subject of any administrative or legal measure of constraint without the authorisation of the Court of Justice.

Article 2

The archives of the Union shall be inviolable.

Article 3

The Union, its assets, revenues and other property shall be exempt from all direct taxes.

The governments of the Member States shall, wherever possible, take the appropriate measures to remit or refund the amount of indirect taxes or sales taxes included in the price of movable or immovable property, where the Union makes, for its official use, substantial purchases the price of which includes taxes of this kind. These provisions shall not be applied, however, so as to have the effect of distorting competition within the Union.

No exemption shall be granted in respect of taxes and dues which amount merely to charges for public utility services.

Article 4

The Union shall be exempt from all customs duties, prohibitions and restrictions on imports and exports in respect of articles intended for its official use: articles so imported shall not be disposed of, whether or not in return for payment, in the territory of the country into which they have been imported, except under conditions approved by the government of that country.

The Union shall also be exempt from any customs duties and any prohibitions and restrictions on import and exports in respect of its publications.

CHAPTER II

Communications and laissez-passer

Article 5

(ex Article 6)

For their official communications and the transmission of all their documents, the institutions of the Union shall enjoy in the territory of each Member State the treatment accorded by that State to diplomatic missions.

Official correspondence and other official communications of the institutions of the Union shall not be subject to censorship.

Article 6

(ex Article 7)

Laissez-passer in a form to be prescribed by the Council, acting by a simple majority, which shall be recognised as valid travel documents by the authorities of the Member States, may be issued to members and servants of the institutions of the Union by the Presidents of these institutions. These *laissez-passer* shall be issued to officials and other servants under conditions laid down in the Staff Regulations of officials and the Conditions of Employment of other servants of the Union.

The Commission may conclude agreements for these *laissez-passer* to be recognised as valid travel documents within the territory of third countries.

CHAPTER III

Members of the European Parliament

Article 7

(ex Article 8)

No administrative or other restriction shall be imposed on the free movement of Members of the European Parliament travelling to or from the place of meeting of the European Parliament.

Members of the European Parliament shall, in respect of customs and exchange control, be accorded:

- (a) by their own government, the same facilities as those accorded to senior officials travelling abroad on temporary official missions;
- (b) by the government of other Member States, the same facilities as those accorded to representatives of foreign governments on temporary official missions.

*Article 8**(ex Article 9)*

Members of the European Parliament shall not be subject to any form of inquiry, detention or legal proceedings in respect of opinions expressed or votes cast by them in the performance of their duties.

*Article 9**(ex Article 10)*

During the sessions of the European Parliament, its Members shall enjoy:

- (a) in the territory of their own State, the immunities accorded to members of their parliament;
- (b) in the territory of any other Member State, immunity from any measure of detention and from legal proceedings.

Immunity shall likewise apply to Members while they are travelling to and from the place of meeting of the European Parliament.

Immunity cannot be claimed when a Member is found in the act of committing an offence and shall not prevent the European Parliament from exercising its right to waive the immunity of one of its Members.

CHAPTER IV

Representatives of Member States taking part in the work of the institutions of the European Union*Article 10**(ex Article 11)*

Representatives of Member States taking part in the work of the institutions of the Union, their advisers and technical experts shall, in the performance of their duties and during their travel to and from the place of meeting, enjoy the customary privileges, immunities and facilities.

This Article shall also apply to members of the advisory bodies of the Union.

CHAPTER V

Officials and other servants of the European Union*Article 11**(ex Article 12)*

In the territory of each Member State and whatever their nationality, officials and other servants of the Union shall:

- (a) subject to the provisions of the Treaties relating, on the one hand, to the rules on the liability of officials and other servants towards the Union and, on the other hand, to the jurisdiction of the Court of Justice of the European Union in disputes between the Union and its officials and other

servants, be immune from legal proceedings in respect of acts performed by them in their official capacity, including their words spoken or written. They shall continue to enjoy this immunity after they have ceased to hold office;

- (b) together with their spouses and dependent members of their families, not be subject to immigration restrictions or to formalities for the registration of aliens;
- (c) in respect of currency or exchange regulations, be accorded the same facilities as are customarily accorded to officials of international organisations;
- (d) enjoy the right to import free of duty their furniture and effects at the time of first taking up their post in the country concerned, and the right to re-export free of duty their furniture and effects, on termination of their duties in that country, subject in either case to the conditions considered to be necessary by the government of the country in which this right is exercised;
- (e) have the right to import free of duty a motor car for their personal use, acquired either in the country of their last residence or in the country of which they are nationals on the terms ruling in the home market in that country, and to re-export it free of duty, subject in either case to the conditions considered to be necessary by the government of the country concerned.

Article 12

(ex Article 13)

Officials and other servants of the Union shall be liable to a tax for the benefit of the Union on salaries, wages and emoluments paid to them by the Union, in accordance with the conditions and procedure laid down by the European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure and after consultation of the institutions concerned.

They shall be exempt from national taxes on salaries, wages and emoluments paid by the Union.

Article 13

(ex Article 14)

In the application of income tax, wealth tax and death duties and in the application of conventions on the avoidance of double taxation concluded between Member States of the Union, officials and other servants of the Union who, solely by reason of the performance of their duties in the service of the Union, establish their residence in the territory of a Member State other than their country of domicile for tax purposes at the time of entering the service of the Union, shall be considered, both in the country of their actual residence and in the country of domicile for tax purposes, as having maintained their domicile in the latter country provided that it is a member of the Union. This provision shall also apply to a spouse, to the extent that the latter is not separately engaged in a gainful occupation, and to children dependent on and in the care of the persons referred to in this Article.

Movable property belonging to persons referred to in the preceding paragraph and situated in the territory of the country where they are staying shall be exempt from death duties in that country; such property shall, for the assessment of such duty, be considered as being in the country of domicile for tax purposes, subject to the rights of third countries and to the possible application of provisions of international conventions on double taxation.

Any domicile acquired solely by reason of the performance of duties in the service of other international organisations shall not be taken into consideration in applying the provisions of this Article.

Article 14

(ex Article 15)

The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure and after consultation of the institutions concerned, shall lay down the scheme of social security benefits for officials and other servants of the Union.

Article 15

(ex Article 16)

The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, and after consulting the other institutions concerned, shall determine the categories of officials and other servants of the Union to whom the provisions of Article 11, the second paragraph of Article 12, and Article 13 shall apply, in whole or in part.

The names, grades and addresses of officials and other servants included in such categories shall be communicated periodically to the governments of the Member States.

CHAPTER VI

Privileges and immunities of missions of third countries accredited to the European Union

Article 16

(ex Article 17)

The Member State in whose territory the Union has its seat shall accord the customary diplomatic immunities and privileges to missions of third countries accredited to the Union.

CHAPTER VII

General Provisions

Article 17

(ex Article 18)

Privileges, immunities and facilities shall be accorded to officials and other servants of the Union solely in the interests of the Union.

Each institution of the Union shall be required to waive the immunity accorded to an official or other servant wherever that institution considers that the waiver of such immunity is not contrary to the interests of the Union.

*Article 18**(ex Article 19)*

The institutions of the Union shall, for the purpose of applying this Protocol, cooperate with the responsible authorities of the Member States concerned.

*Article 19**(ex Article 20)*

Articles 11 to 14 and Article 17 shall apply to the President of the European Council.

They shall also apply to Members of the Commission.

*Article 20**(ex Article 21)*

Articles 11 to 14 and Article 17 shall apply to the Judges, the Advocates-General, the Registrars and the Assistant Rapporteurs of the Court of Justice of the European Union, without prejudice to the provisions of Article 3 of the Protocol on the Statute of the Court of Justice of the European Union relating to immunity from legal proceedings of Judges and Advocates-General.

*Article 21**(ex Article 22)*

This Protocol shall also apply to the European Investment Bank, to the members of its organs, to its staff and to the representatives of the Member States taking part in its activities, without prejudice to the provisions of the Protocol on the Statute of the Bank.

The European Investment Bank shall in addition be exempt from any form of taxation or imposition of a like nature on the occasion of any increase in its capital and from the various formalities which may be connected therewith in the State where the Bank has its seat. Similarly, its dissolution or liquidation shall not give rise to any imposition. Finally, the activities of the Bank and of its organs carried on in accordance with its Statute shall not be subject to any turnover tax.

*Article 22**(ex Article 23)*

This Protocol shall also apply to the European Central Bank, to the members of its organs and to its staff, without prejudice to the provisions of the Protocol on the Statute of the European System of Central Banks and the European Central Bank.

The European Central Bank shall, in addition, be exempt from any form of taxation or imposition of a like nature on the occasion of any increase in its capital and from the various formalities which may be connected therewith in the State where the bank has its seat. The activities of the Bank and of its organs carried on in accordance with the Statute of the European System of Central Banks and of the European Central Bank shall not be subject to any turnover tax.

PROTOCOL ON ARTICLE 40.3.3 OF THE CONSTITUTION OF IRELAND

THE HIGH CONTRACTING PARTIES,

HAVE AGREED upon the following provision, which shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community:

Nothing in the Treaties, or in the Treaty establishing the European Atomic Energy Community, or in the Treaties or Acts modifying or supplementing those Treaties, shall affect the application in Ireland of Article 40.3.3 of the Constitution of Ireland.

PROTOCOL ON TRANSITIONAL PROVISIONS

THE HIGH CONTRACTING PARTIES,

WHEREAS, in order to organise the transition from the institutional provisions of the Treaties applicable prior to the entry into force of the Treaty of Lisbon to the provisions contained in that Treaty, it is necessary to lay down transitional provisions,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community:

Article 1

In this Protocol, the words ‘the Treaties’ shall mean the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community.

TITLE I

PROVISIONS CONCERNING THE EUROPEAN PARLIAMENT

Article 2

1. For the period of the 2009-2014 parliamentary term remaining at the date of entry into force of this Article, and by way of derogation from Articles 189, second paragraph, and 190(2) of the Treaty establishing the European Community and Articles 107, second paragraph, and 108(2) of the Treaty establishing the European Atomic Energy Community, which were in force at the time of the European Parliament elections in June 2009, and by way of derogation from the number of seats provided for in the first subparagraph of Article 14(2) of the Treaty on European Union, the following 18 seats shall be added to the existing 736 seats, thus provisionally bringing the total number of members of the European Parliament to 754 until the end of the 2009-2014 parliamentary term:

Bulgaria	1	Netherlands	1
Spain	4	Austria	2
France	2	Poland	1
Italy	1	Slovenia	1
Latvia	1	Sweden	2
Malta	1	United Kingdom	1

2. By way of derogation from Article 14(3) of the Treaty on European Union, the Member States concerned shall designate the persons who will fill the additional seats referred to in paragraph 1, in accordance with the legislation of the Member States concerned and provided that the persons in question have been elected by direct universal suffrage:

(a) in *ad hoc* elections by direct universal suffrage in the Member State concerned, in accordance with the provisions applicable for elections to the European Parliament;

- (b) by reference to the results of the European Parliament elections from 4 to 7 June 2009; or
- (c) by designation, by the national parliament of the Member State concerned from among its members, of the requisite number of members, according to the procedure determined by each of those Member States.

3. In accordance with the second subparagraph of Article 14(2) of the Treaty on European Union, the European Council shall adopt a decision determining the composition of the European Parliament in good time before the 2014 European Parliament elections.

TITLE II

PROVISIONS CONCERNING THE QUALIFIED MAJORITY

Article 3

1. In accordance with Article 16(4) of the Treaty on European Union, the provisions of that paragraph and of Article 238(2) of the Treaty on the Functioning of the European Union relating to the definition of the qualified majority in the European Council and the Council shall take effect on 1 November 2014.

2. Between 1 November 2014 and 31 March 2017, when an act is to be adopted by qualified majority, a member of the Council may request that it be adopted in accordance with the qualified majority as defined in paragraph 3. In that case, paragraphs 3 and 4 shall apply.

3. Until 31 October 2014, the following provisions shall remain in force, without prejudice to the second subparagraph of Article 235(1) of the Treaty on the Functioning of the European Union.

For acts of the European Council and of the Council requiring a qualified majority, members' votes shall be weighted as follows:

Belgium	12	Luxembourg	4
Bulgaria	10	Hungary	12
Czech Republic	12	Malta	3
Denmark	7	Netherlands	13
Germany	29	Austria	10
Estonia	4	Poland	27
Ireland	7	Portugal	12
Greece	12	Romania	14
Spain	27	Slovenia	4
France	29	Slovakia	7
Italy	29	Finland	7
Cyprus	4	Sweden	10
Latvia	4	United Kingdom	29
Lithuania	7		

Acts shall be adopted if there are at least 255 votes in favour representing a majority of the members where, under the Treaties, they must be adopted on a proposal from the Commission. In other cases decisions shall be adopted if there are at least 255 votes in favour representing at least two thirds of the members.

A member of the European Council or the Council may request that, where an act is adopted by the European Council or the Council by a qualified majority, a check is made to ensure that the Member States comprising the qualified majority represent at least 62 % of the total population of the Union. If that proves not to be the case, the act shall not be adopted.

4. Until 31 October 2014, the qualified majority shall, in cases where, under the Treaties, not all the members of the Council participate in voting, namely in the cases where reference is made to the qualified majority as defined in Article 238(3) of the Treaty on the Functioning of the European Union, be defined as the same proportion of the weighted votes and the same proportion of the number of the Council members and, if appropriate, the same percentage of the population of the Member States concerned as laid down in paragraph 3 of this Article.

TITLE III

PROVISIONS CONCERNING THE CONFIGURATIONS OF THE COUNCIL

Article 4

Until the entry into force of the decision referred to in the first subparagraph of Article 16(6) of the Treaty on European Union, the Council may meet in the configurations laid down in the second and third subparagraphs of that paragraph and in the other configurations on the list established by a decision of the General Affairs Council, acting by a simple majority.

TITLE IV

PROVISIONS CONCERNING THE COMMISSION, INCLUDING THE HIGH REPRESENTATIVE OF THE UNION FOR FOREIGN AFFAIRS AND SECURITY POLICY

Article 5

The members of the Commission in office on the date of entry into force of the Treaty of Lisbon shall remain in office until the end of their term of office. However, on the day of the appointment of the High Representative of the Union for Foreign Affairs and Security Policy, the term of office of the member having the same nationality as the High Representative shall end.

TITLE V

PROVISIONS CONCERNING THE SECRETARY-GENERAL OF THE COUNCIL, HIGH REPRESENTATIVE FOR THE COMMON FOREIGN AND SECURITY POLICY, AND THE DEPUTY SECRETARY-GENERAL OF THE COUNCIL

Article 6

The terms of office of the Secretary-General of the Council, High Representative for the common foreign and security policy, and the Deputy Secretary-General of the Council shall end on the date of entry into force of the Treaty of Lisbon. The Council shall appoint a Secretary-General in conformity with Article 240(2) of the Treaty on the Functioning of the European Union.

TITLE VI

PROVISIONS CONCERNING ADVISORY BODIES

Article 7

Until the entry into force of the decision referred to in Article 301 of the Treaty on the Functioning of the European Union, the allocation of members of the Economic and Social Committee shall be as follows:

Belgium	12	Luxembourg	6
Bulgaria	12	Hungary	12
Czech Republic	12	Malta	5
Denmark	9	Netherlands	12
Germany	24	Austria	12
Estonia	7	Poland	21
Ireland	9	Portugal	12
Greece	12	Romania	15
Spain	21	Slovenia	7
France	24	Slovakia	9
Italy	24	Finland	9
Cyprus	6	Sweden	12
Latvia	7	United Kingdom	24
Lithuania	9		

Article 8

Until the entry into force of the decision referred to in Article 305 of the Treaty on the Functioning of the European Union, the allocation of members of the Committee of the Regions shall be as follows:

Belgium	12	Luxembourg	6
Bulgaria	12	Hungary	12
Czech Republic	12	Malta	5
Denmark	9	Netherlands	12
Germany	24	Austria	12
Estonia	7	Poland	21
Ireland	9	Portugal	12
Greece	12	Romania	15
Spain	21	Slovenia	7
France	24	Slovakia	9
Italy	24	Finland	9
Cyprus	6	Sweden	12
Latvia	7	United Kingdom	24
Lithuania	9		

TITLE VII

TRANSITIONAL PROVISIONS CONCERNING ACTS ADOPTED ON THE BASIS OF TITLES V AND VI OF THE TREATY ON EUROPEAN UNION PRIOR TO THE ENTRY INTO FORCE OF THE TREATY OF LISBON*Article 9*

The legal effects of the acts of the institutions, bodies, offices and agencies of the Union adopted on the basis of the Treaty on European Union prior to the entry into force of the Treaty of Lisbon shall be preserved until those acts are repealed, annulled or amended in implementation of the Treaties. The same shall apply to agreements concluded between Member States on the basis of the Treaty on European Union.

Article 10

1. As a transitional measure, and with respect to acts of the Union in the field of police cooperation and judicial cooperation in criminal matters which have been adopted before the entry into force of the Treaty of Lisbon, the powers of the institutions shall be the following at the date of entry into force of that Treaty: the powers of the Commission under Article 258 of the Treaty on the Functioning of the European Union shall not be applicable and the powers of the Court of Justice of the European Union under Title VI of the Treaty on European Union, in the version in force before the entry into force of the Treaty of Lisbon, shall remain the same, including where they have been accepted under Article 35(2) of the said Treaty on European Union.

2. The amendment of an act referred to in paragraph 1 shall entail the applicability of the powers of the institutions referred to in that paragraph as set out in the Treaties with respect to the amended act for those Member States to which that amended act shall apply.

3. In any case, the transitional measure mentioned in paragraph 1 shall cease to have effect five years after the date of entry into force of the Treaty of Lisbon.

4. At the latest six months before the expiry of the transitional period referred to in paragraph 3, the United Kingdom may notify to the Council that it does not accept, with respect to the acts referred to in paragraph 1, the powers of the institutions referred to in paragraph 1 as set out in the Treaties. In case the United Kingdom has made that notification, all acts referred to in paragraph 1 shall cease to apply to it as from the date of expiry of the transitional period referred to in paragraph 3. This subparagraph shall not apply with respect to the amended acts which are applicable to the United Kingdom as referred to in paragraph 2.

The Council, acting by a qualified majority on a proposal from the Commission, shall determine the necessary consequential and transitional arrangements. The United Kingdom shall not participate in the adoption of this decision. A qualified majority of the Council shall be defined in accordance with Article 238(3)(a) of the Treaty on the Functioning of the European Union.

The Council, acting by a qualified majority on a proposal from the Commission, may also adopt a decision determining that the United Kingdom shall bear the direct financial consequences, if any, necessarily and unavoidably incurred as a result of the cessation of its participation in those acts.

5. The United Kingdom may, at any time afterwards, notify the Council of its wish to participate in acts which have ceased to apply to it pursuant to paragraph 4, first subparagraph. In that case, the relevant provisions of the Protocol on the Schengen *acquis* integrated into the framework of the European Union or of the Protocol on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, as the case may be, shall apply. The powers of the institutions with regard to those acts shall be those set out in the Treaties. When acting under the relevant Protocols, the Union institutions and the United Kingdom shall seek to re-establish the widest possible measure of participation of the United Kingdom in the *acquis* of the Union in the area of freedom, security and justice without seriously affecting the practical operability of the various parts thereof, while respecting their coherence.

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Secondary Legislation

Secondary Legislation

• Regulations

- **REGULATION No 647/2010** of the Council of 13 July 2010 on financial assistance of the Union with respect to the decommissioning of Units 1 to 4 of the Kozloduy Nuclear Power Plant in Bulgaria (Kozloduy Programme)
- **REGULATION No 1048/2009** of 23 October 2009 amending Regulation (EC) No 733/2008 on the conditions governing imports of agricultural products originating in third countries following the accident at the Chernobyl nuclear power station
- **REGULATION No 733/2008** of the Council of 15 July 2008 on the conditions governing imports of agricultural products originating in third countries following the accident at the Chernobyl nuclear power station
- **REGULATION No 1717/2006** of the European Parliament and of the Council of 15 November 2006 on establishing an Instrument for Stability
- **REGULATION No 300/2007/Euratom** of the Council of 19 February 2007 on establishing an Instrument for Nuclear Safety Cooperation
- **REGULATION No 302/2005/Euratom** of the Commission of 8 February 2005 on the application of Euratom safeguards
- **REGULATION No 1013/2006(EC)** of the European Parliament and of the Council of 14 June 2006 on shipments of waste

• Directives

- **DIRECTIVE No 70/2011/Euratom** of the Council of 19 July 2011 on establishing a Community framework for the responsible and safe management of spent fuel and radioactive waste
- **DIRECTIVE No 71/2009/Euratom** of the Council of 25 June 2009 on establishing a Community framework for the nuclear safety of nuclear installations
- **DIRECTIVE No 87/2014/Euratom** of the Council of 8 July 2014 amending Directive No 71/2009/Euratom establishing a Community framework for the nuclear safety of nuclear installations
- **DIRECTIVE No 117/2006/Euratom** of the Council of 20 November 2006 on the supervision and control of shipments of radioactive waste and spent fuel
- **DIRECTIVE No 122/2003/Euratom** of the Council of 22 December 2003 on the control of high-activity sealed radioactive sources and orphan sources
- **DIRECTIVE No 29/1996/Euratom** of the Council of 13 May 1996 on laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation
- **DIRECTIVE No 59/2013/Euratom** of the Council of 5 December 2013 on laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom

• Decisions

- **DECISION No 530/2007/Euratom** of the Commission of 17 July 2007 on establishing the European High Level Group on Nuclear Safety and Waste Management
- **DECISION No 513/2007/Euratom** of the Council of 10 July 2007 on approving the accession of the European Atomic Energy Community to the amended Convention on the Physical Protection of Nuclear Material and Nuclear Facilities
- **DECISION No 908/2006/EG,Euratom** of the Council of 4 December 2006 on the first instalment of the third Community contribution to the European Bank for Reconstruction and Development for the Chernobyl Shelter Fund
- **DECISION No 845/2005/Euratom** of the Commission of 25 November 2005 concerning the accession of the European Atomic Energy Community to the Convention on Assistance in the case of a Nuclear Accident or Radiological Emergency
- **DECISION No 844/2005/Euratom** of the Commission of 25 November 2005 concerning the accession of the European Atomic Energy Community to the Convention on Early Notification of a Nuclear Accident
- **DECISION No 510/2005/Euratom** of the Commission of 14 June 2005 concerning the accession of the European Atomic Energy Community to the 'Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management'
- **DECISION No 924/1999/Euratom** of the Commission of 23 July 1999 on the conclusion of two cooperation agreements between the European Atomic Energy Community and the Cabinet of Ministers of Ukraine in the field of nuclear safety and in the field of controlled nuclear fusion

• Recommendations and Statements

Regulations

Secondary Legislation

- **Regulations**

- **REGULATION No 647/2010** of the Council of 13 July 2010 on financial assistance of the Union with respect to the decommissioning of Units 1 to 4 of the Kozloduy Nuclear Power Plant in Bulgaria (Kozloduy Programme)
- **REGULATION No 1048/2009** of 23 October 2009 amending Regulation (EC) No 733/2008 on the conditions governing imports of agricultural products originating in third countries following the accident at the Chernobyl nuclear power station
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- **REGULATION No 1013/2006(EC)** of the European Parliament and of the Council of 14 June 2006 on shipments of waste

II

(Non-legislative acts)

REGULATIONS

REGULATION (EURATOM) No 647/2010 OF THE COUNCIL

of 13 July 2010

on financial assistance of the Union with respect to the decommissioning of Units 1 to 4 of the Kozloduy Nuclear Power Plant in Bulgaria (Kozloduy Programme)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 203 thereof,

Having regard to the Bulgarian request for further funding,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas:

- (1) During the accession negotiations in 2005, Bulgaria agreed to the closure of Units 1 and 2 and Units 3 and 4 of the Kozloduy Nuclear Power Plant by 31 December 2002 and 31 December 2006, respectively and to the subsequent decommissioning of those units. The European Union expressed its willingness to continue to provide financial assistance up to 2009 as an extension of the pre-accession aid planned under the Phare programme in support of Bulgaria's decommissioning efforts.
- (2) In view of Bulgaria's commitment to close Units 3 and 4 of the Kozloduy Nuclear Power Plant, Article 30 of the Act concerning the conditions of accession of the Republic of Bulgaria and Romania (hereinafter referred to as the '2005 Act of Accession') established an assistance programme (hereinafter referred to as the 'Kozloduy Programme') with a budget of EUR 210 million for the period 2007 to 2009. That programme included assistance to cover the capacity loss as a consequence of the closure of Kozloduy Nuclear Power Plant.
- (3) International decommissioning funds managed by the European Bank for Reconstruction and Development (EBRD) have been in place for a number of years. The Union is the main contributor to those funds.
- (4) The Union recognises the effort made and the good progress achieved by Bulgaria in the decommissioning preparation stage of the Kozloduy Programme utilising the Union funds put in place until 2009, and the need for further financial support beyond 2009 in order to continue the progress with the actual dismantling operations in accordance with the 2005 Act of Accession, whilst applying the highest safety standards.
- (5) In addition, it is important to use the Kozloduy Nuclear Power Plant's own resources, as this contributes to the availability of the necessary expertise, enhances know-how and skills, and at the same time mitigates the social and economic impact of the early closure by continuously employing the staff from the closed nuclear power plant. The continued financial support is therefore important to maintain the required safety, health and environmental standards.
- (6) The Union also recognises the need for financial support in order to progress further with mitigating measures in the energy sector given the extent of the capacity loss by the closure of the nuclear units and its impact on the security of supply in the region.
- (7) The Union recognises the need to mitigate the effect of increased environmental damage and emissions due to the replacement capacity coming mostly from increased use of lignite plants.
- (8) Consequently, provision should be made for a sum of EUR 300 million from the general budget of the Union to fund the decommissioning of the Kozloduy Nuclear Power Plant over the period from 2010 to 2013.
- (9) The appropriations of the general budget of the Union for decommissioning should not lead to distortions of competition in relation to power supply companies on the energy market in the Union. These appropriations should also be used to finance energy efficiency and savings measures in line with the *acquis* and the rules of the functioning of the common European energy market.

⁽¹⁾ Opinion of 20 May 2010 (not yet published in the Official Journal).

- (10) The financial assistance should continue to be made available as a Union contribution to the Kozloduy International Decommissioning Support Fund managed by the EBRD.
- (11) The tasks of the EBRD include managing the public funds allocated to the programmes for decommissioning those nuclear power units that were subject to accession-linked closure agreements. The EBRD is monitoring the financial management of these programmes so as to optimise the use of public money. In addition, the EBRD carries out the budget tasks entrusted to it by the Commission in line with the requirements of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽¹⁾ (the Financial Regulation).
- (12) In order to ensure the highest possible efficiency and to minimise possible environmental consequences, the decommissioning of Units 1 to 4 of the Kozloduy Nuclear Power Plant should be carried out with recourse to the best available technical expertise, and with due regard to the nature and technological specifications of the units to be shut down.
- (13) The decommissioning of the Kozloduy Nuclear Power Plant will be carried out in line with the legislation on the environment, particularly Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment ⁽²⁾.
- (14) Principles of economy, efficiency and effectiveness in respect of the allocated funds should be ensured through evaluation and performance audits of the previously financed programmes.
- (15) A financial reference amount, within the meaning of point 38 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management ⁽³⁾, should be included in this Regulation for the entire duration of the Kozloduy Programme, without thereby affecting the powers of the budgetary authority as set out in the Treaty on the Functioning of the European Union.
- (16) For the adoption of measures necessary for the implementation of this Regulation, the Commission should be assisted by the Committee established by Council Regulation (Euratom) No 549/2007 ⁽⁴⁾,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation establishes a programme (hereinafter referred to as the 'Kozloduy Programme') laying down detailed rules for the implementation of the Union's financial contribution to address the further process of the decommissioning of Units 1 to 4 of the Kozloduy Nuclear Power Plant in Bulgaria and the consequences of their early closure, with regard to the environment, the economy and the security of supply in the region.

Article 2

The Union contribution to the Kozloduy programme shall be granted for the purpose of providing financial support for:

- measures connected with the decommissioning of the Kozloduy Nuclear Power Plant,
- measures for environmental upgrading in line with the *acquis* and for modernising conventional production capacity to replace the production capacity of the four reactors at the Plant, and
- other measures which stem from the decision to close and decommission the Plant and which contribute to the necessary restructuring, upgrading of the environment and modernisation of the energy production, transmission and distribution sectors in Bulgaria as well as to enhancing security of supply and energy efficiency in Bulgaria.

Article 3

1. The financial reference amount for the implementation of the Kozloduy Programme for the period from 1 January 2010 to 31 December 2013 shall be EUR 300 million.

2. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial framework.

3. The amount of the appropriations allocated to the Kozloduy Programme may be reviewed in the course of the period from 1 January 2010 to 31 December 2013 to take account of the progress made with the implementation of the Programme and to ensure that the programming and allocation of the resources are based on actual payment needs and absorption capacity.

Article 4

In prolongation of what has been specified in the 2005 Act of Accession, the contribution for certain measures may amount to up to 100 % of the total expenditure. Every effort shall be made to continue the co-financing practice established under the pre-accession assistance and the assistance given over the period 2007-2009 for Bulgaria's decommissioning effort as well as to attract co-financing from other sources, as appropriate.

⁽¹⁾ OJ L 248, 16.9.2002, p. 1.

⁽²⁾ OJ L 175, 5.7.1985, p. 40.

⁽³⁾ OJ C 139, 14.6.2006, p. 1.

⁽⁴⁾ Council Regulation (Euratom) No 549/2007 of 14 May 2007 on the implementation of Protocol No 9 on Unit 1 and Unit 2 of the Bohunice V1 nuclear power plant in Slovakia to the Act concerning the conditions of accession to the European Union of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia (OJ L 131, 23.5.2007, p. 1).

Article 5

1. Financial assistance for measures under the Kozloduy Programme shall be made available as a Union contribution to the Kozloduy International Decommissioning Support Fund, managed by the EBRD, in line with Article 53d of the Financial Regulation.

2. Measures under the Kozloduy Programme shall be adopted in accordance with Article 8(2).

Article 6

1. The Commission may cause an audit of the use made of the assistance to be carried out, either directly by its own staff or by any other qualified outside body of its choice. Such audits may be carried out throughout the duration of the agreement between the Union and the EBRD on making Union funds available to the Kozloduy International Decommissioning Support Fund and for a period of 5 years from the date of payment of the balance. Where appropriate, the audit findings may lead to recovery decisions by the Commission.

2. Commission staff and outside personnel authorised by the Commission shall have appropriate right of access, particularly to the beneficiary's offices and to all the information, including information in electronic format, needed in order to conduct such audits. The audits shall also cover the stage reached in the issuing of permits for decommissioning.

The Court of Auditors and the European Parliament shall enjoy the same rights, especially of access, as the Commission.

Furthermore, in order to protect the financial interests of the Union against fraud and other irregularities, the European Anti-Fraud Office (OLAF) may carry out on-the-spot checks and inspections under the Kozloduy Programme in accordance with Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities⁽¹⁾.

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

Done at Brussels, 13 July 2010.

3. For the Union action financed under this Regulation, the term 'irregularity' in Article 1(2) of Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests⁽²⁾ shall mean any infringement of a provision of the law of the Union or any breach of a contractual obligation resulting from an act or omission by an economic operator which has, or would have, the effect of prejudicing the general budget of the Union or budgets managed by it by an unjustified item of expenditure or budgets managed by other international organisations on behalf of the Union or the Community.

4. The agreements between the Union and the EBRD on making Union funds available to the Kozloduy International Decommissioning Support Fund shall provide for appropriate measures to protect the financial interests of the Union against fraud, corruption and other irregularities and to enable the Commission, OLAF and the Court of Auditors to carry out on-the-spot checks.

Article 7

The Commission shall ensure the implementation of this Regulation and shall report at regular intervals to the European Parliament and the Council. It shall carry out a review, as provided for in Article 3(3).

Article 8

1. The Commission shall be assisted by the Committee established by Article 8(1) of Regulation (Euratom) No 549/2007.

2. Where reference is made to this paragraph, the procedure provided for in Article 8(2) of Regulation (Euratom) No 549/2007 shall apply.

Article 9

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

For the Council
The President
D. REYNDERS

⁽¹⁾ OJ L 292, 15.11.1996, p. 2.

⁽²⁾ OJ L 312, 23.12.1995, p. 1.

COUNCIL REGULATION (EC) No 1048/2009**of 23 October 2009****amending Regulation (EC) No 733/2008 on the conditions governing imports of agricultural products originating in third countries following the accident at the Chernobyl nuclear power station**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Regulation (EC) No 733/2008 of 15 July 2008 ⁽¹⁾, which is the codified version of repealed Regulation (EEC) No 737/90 of 22 March 1990 on the conditions governing imports of agricultural products originating in third countries following the accident at the Chernobyl nuclear power station ⁽²⁾, fixed maximum permitted levels of radioactivity for agricultural products originating in third countries and intended for human consumption, with which imports must comply and in connection with which checks are carried out by the Member States. However, Regulation (EC) No 733/2008 expires on 31 March 2010.
- (2) Radioactive caesium contamination of certain products originating in the third countries most affected by the Chernobyl accident still exceeds the maximum permitted levels of radioactivity laid down in Regulation (EC) No 733/2008.
- (3) There is scientific evidence that the duration of caesium-137 contamination following the Chernobyl accident, for a number of products originating from species living and

growing in forests and wooded areas, essentially relates to the physical half-life of that radionuclide, which is 30 years.

- (4) Regulation (EC) No 733/2008 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

The second paragraph of Article 7 of Regulation (EC) No 733/2008 shall be replaced by the following:

‘It shall expire:

1. on 31 March 2020, unless the Council decides otherwise at an earlier date, in particular if the list of excluded products referred to in Article 4 covers all the products fit for human consumption to which this Regulation applies;
2. upon the entry into force of the Commission Regulation referred to in Article 2(1) of Regulation (Euratom) No 3954/87, if such entry into force takes place before 31 March 2020.’

Article 2

This Regulation shall enter into force on the 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 Luxembourg, 23 October 2009.

For the Council
The President
T. BILLSTRÖM

⁽¹⁾ OJ L 201, 30.7.2008, p. 1.

⁽²⁾ OJ L 82, 29.3.1990, p. 1.

I

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

REGULATIONS

COUNCIL REGULATION (EURATOM) No 300/2007

of 19 February 2007

establishing an Instrument for Nuclear Safety Cooperation

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 203 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas:

(1) The European Community is a major provider of economic, financial, technical, humanitarian and macro-economic assistance to third countries. In order to make the European Community's external aid more effective, a new framework has been devised for the planning and provision of assistance, including the following Regulations: Council Regulation (EC) No 1085/2006 of 17 July 2006 establishing an Instrument for Pre-Accession Assistance (IPA) ⁽²⁾ to cover Community assistance for candidate countries and potential candidate countries, Regulation (EC) No 1638/2006 of the European Parliament and of the Council of 24 October 2006 laying down general provisions establishing a European Neighbourhood and Partnership Instrument ⁽³⁾, Regulation (EC) No 1905/2006 of the European Parliament and of the Council of 18 December 2006 establishing a financing instrument for development cooperation ⁽⁴⁾, Regulation (EC) No 1717/2006 of the European Parliament and of the Council of 15 November 2006 establishing an Instrument for Stability ⁽⁵⁾, Regulation (EC) No 1889/2006 of the European Parliament and of the Council of 20 December 2006 establishing a financing instrument for the promotion of democracy

and human rights worldwide ⁽⁶⁾, and Council Regulation (EC) No 1934/2006 of 21 December 2006 establishing a financing instrument for cooperation with industrialised and other high-income countries and territories ⁽⁷⁾. The present Regulation is a complementary instrument aimed at supporting the promotion of a high level of nuclear safety, radiation protection and the application of efficient and effective safeguards of nuclear material in third countries.

- (2) The Chernobyl accident in 1986 highlighted the global importance of nuclear safety. In order to fulfil the objective of the Treaty establishing the European Atomic Energy Community (the 'Euratom Treaty') to create the conditions of safety necessary to eliminate hazards to the life and health of the public, the European Atomic Energy Community (the 'Community') should be able to support nuclear safety in third countries.
- (3) By Commission Decision 1999/819/Euratom ⁽⁸⁾ the Community acceded to the 1994 Convention on Nuclear Safety, which has as one of its objectives to achieve and maintain a high level of nuclear safety worldwide. By Commission Decision 2005/510/Euratom ⁽⁹⁾ the Community also acceded to the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management, which has as one of its objectives to achieve and maintain a high level of safety in spent fuel and radioactive waste management worldwide. The two Conventions aim to realise these objectives through the enhancement of national measures and international cooperation including, where appropriate, safety-related cooperation.

⁽¹⁾ Opinion of 14 December 2006 (not yet published in the Official Journal).

⁽²⁾ OJ L 210, 31.7.2006, p. 82.

⁽³⁾ OJ L 310, 9.11.2006, p. 1.

⁽⁴⁾ OJ L 378, 27.12.2006, p. 41.

⁽⁵⁾ OJ L 327, 24.11.2006, p. 1.

⁽⁶⁾ OJ L 386, 29.12.2006, p. 1.

⁽⁷⁾ OJ L 405, 30.12.2006, p. 41. Regulation as corrected in OJ L 29, 3.2.2007, p. 16.

⁽⁸⁾ OJ L 318, 11.12.1999, p. 20. Decision as amended by Decision 2004/491/Euratom (OJ L 172, 6.5.2004, p. 7).

⁽⁹⁾ OJ L 185, 16.7.2005, p. 33.

- (4) The Community already pursues a close cooperation, in accordance with Chapter 10 of the Euratom Treaty, with the International Atomic Energy Agency (IAEA), both in relation to nuclear safeguards (in furtherance of the objectives of Chapter 7 of Title Two of the Euratom Treaty), and in relation to nuclear safety.
- (5) There is a particular need for the Community to continue its efforts in support of the application of effective safeguards of nuclear material in third countries, building on its own safeguard activities within the European Union.
- (6) There is a particular need to build on the experience already gained under the Tacis and Phare programmes including through the work of the relevant expert groups, notably in the area of civil nuclear liability.
- (7) There is a need to finance accompanying measures in support of the objectives of this Regulation, including training, research and support for the implementation of international Conventions and Treaties. It is desirable to coordinate actions under such Conventions and Treaties with Community actions.
- (8) In addition to international Conventions and Treaties some Member States have concluded bilateral agreements on the provision of technical assistance.
- (9) In its Resolution of 18 June 1992 on the technological problems of nuclear safety the Council 'emphasises the particular importance it attaches to nuclear safety in Europe, and therefore requests the Member States and the Commission to adopt as the fundamental and priority objective of Community cooperation in the nuclear field, in particular with the other European countries, especially those of Central and Eastern Europe and the Republics of the former Soviet Union, that of bringing their nuclear installations up to safety levels equivalent to those in practice in the Community and to facilitate the implementation of the safety criteria and requirements already recognised throughout the Community'. Financial assistance should be provided taking these objectives into account, including when supporting existing plants which are not yet in operation.
- (10) According to the Convention on Nuclear Safety 'licence' means any authorisation granted by the regulatory body to the applicant to have the responsibility for the siting, design, construction, commissioning, operation or decommissioning of a nuclear installation.
- (11) Is understood that, when giving assistance to the nuclear installation concerned, it is with the aim that maximum impact could be obtained by the assistance, without, however, deviating from the principle that the responsibility for the safety of the installation should rest with the operator and the State having the jurisdiction over the installation.
- (12) The 2001 Guidelines for strengthening operational coordination in the field of external assistance emphasise the need for enhanced coordination of EU external assistance.
- (13) For the adoption of measures necessary for the implementation of this Regulation the Commission should be assisted by a committee.
- (14) This Regulation replaces Council Regulation (EC, Euratom) No 99/2000 of 29 December 1999 concerning the provision of assistance to the partner States in Eastern Europe and Central Asia⁽¹⁰⁾, Council Decision 98/381/EC, Euratom of 5 June 1998 concerning the Community contribution to the European Bank for Reconstruction and Development for the Chernobyl Shelter Fund⁽¹¹⁾, and Council Decision 2001/824/EC, Euratom of 16 November 2001 on a further contribution of the European Community to the European Bank for Reconstruction and Development for the Chernobyl Shelter Fund⁽¹²⁾. Those instruments should therefore be repealed.
- (15) This Regulation, providing for financial assistance in support of the objectives of the Euratom Treaty, should be without prejudice to the respective competences of the Community and Member States in the fields concerned, in particular in relation to nuclear safeguards.
- ⁽¹⁰⁾ OJ L 12, 18.1.2000, p. 1. Regulation as replaced by Regulation (EC) No 1638/2006 of the European Parliament and the Council (OJ L 310, 9.11.2006, p. 1).
- ⁽¹¹⁾ OJ L 171, 17.6.1998, p. 31.
- ⁽¹²⁾ OJ L 308, 27.11.2001, p. 25.

- (16) A financial reference amount, within the meaning of point 38 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management ⁽¹³⁾, is included in this Regulation for the entire duration of the instrument, without thereby affecting the powers of the budgetary authority as they are defined by the Euratom Treaty.
- (17) The Euratom Treaty does not provide, for the adoption of this Regulation, powers other than those of Article 203.
- (18) In order to ensure the effective implementation of the Instrument for nuclear safety cooperation, this Regulation should apply from 1 January 2007,
- continuous support for regulatory bodies, technical support organisations, and the reinforcement of the regulatory framework, notably concerning licensing activities,
 - drawing notably on the experience of the operators, on site and external assistance programmes as well as consulting and related activities aiming at safety improvements of the design, operation and maintenance of nuclear power plants that are currently licensed and other existing nuclear installations so that high safety levels can be achieved,
 - support for the safe transport, treatment and disposal of spent nuclear fuel and radioactive waste, and
 - the development and implementation of strategies for decommissioning existing installations and the remediation of former nuclear sites;

HAS ADOPTED THIS REGULATION:

TITLE I

OBJECTIVES

Article 1

General objectives and scope

The Community shall finance measures to support the promotion of a high level of nuclear safety, radiation protection and the application of efficient and effective safeguards of nuclear material in third countries in line with the provisions of this Regulation.

Article 2

Purpose

The financial, economic and technical assistance provided under this Regulation shall be complementary to any assistance that is provided by the European Community under the humanitarian aid instrument, the Instrument for Pre-Accession Assistance, the European Neighbourhood and Partnership Instrument, the instrument for development cooperation, the Instrument for Stability, the European Instrument for Democracy and Human Rights, and the instrument for cooperation with industrialised and other high-income countries and territories. In pursuit of these objectives the following measures shall be supported by this Regulation:

- (a) the promotion of an effective nuclear safety culture at all levels, in particular through:

- (b) the promotion of effective regulatory frameworks, procedures and systems to ensure adequate protection against ionising radiations from radioactive materials, in particular from high activity radioactive sources, and their safe disposal;
- (c) the establishment of the necessary regulatory framework and methodologies for the implementation of nuclear safeguards, including for the proper accounting and control of fissile materials at State and operators level;
- (d) the establishment of effective arrangements for the prevention of accidents with radiological consequences as well as the mitigation of such consequences should they occur, and for emergency-planning, preparedness and response, civil protection and rehabilitation measures;
- (e) measures to promote international cooperation (including in the framework of relevant international organisations, notably IAEA) in the above fields, including the implementation and monitoring of international Conventions and Treaties, exchange of information and training and research.

The Commission shall ensure that the measures adopted are consistent with the European Community's overall strategic policy framework for the partner country, and in particular with the objectives of its development and economic cooperation policies and programmes adopted pursuant to Articles 179 and 181a of the Treaty establishing the European Community.

⁽¹³⁾ OJ C 139, 14.6.2006, p. 1.

TITLE II

**IMPLEMENTATION: PROGRAMMING AND
ALLOCATION OF FUNDS***Article 3***Strategy papers and indicative programmes**

1. Community assistance under this Regulation shall be implemented on the basis of multi-annual strategy papers and indicative programmes.

2. The multi-annual strategy papers, covering one or more countries, shall constitute the general basis for the implementation of assistance under Article 2, and shall be established for a period of up to seven years. They shall set out the Community's strategy for the provision of assistance under this Regulation, having regard to the needs of the countries concerned, the Community's priorities, the international situation and the activities of the main partners.

3. In drawing up these strategy papers, the Commission shall ensure that they are consistent with the strategies and measures adopted under other European Community instruments for external assistance.

4. Strategy papers shall contain multi-annual indicative programmes, setting out the priority areas selected for Community financing, the specific objectives and expected results, and the indicative financial allocations, overall and for each priority area. The financial allocations may be given in the form of a range where appropriate. These indicative programmes shall be established in consultation with the partner country or countries concerned.

*Article 4***Adoption of programming documents**

1. The strategy papers and indicative programmes referred to in Article 3 shall be adopted in accordance with the procedure referred to in Article 19(2). They shall cover a period no longer than the period of application of this Regulation.

2. Strategy papers shall be reviewed at mid-term or whenever necessary, and may be revised in accordance with the procedure referred to in Article 19(2).

3. Indicative programmes shall be revised as necessary taking into account any review of the relevant strategy papers. In exceptional cases, adjustment of multi-annual allocations may be applied in the light of special circumstances, such as major unforeseen developments or exceptional performance. Any revision of indicative programmes shall be made in accordance with the procedure referred to in Article 19(2).

TITLE III

IMPLEMENTATION: OTHER PROVISIONS*Article 5***Action programmes**

1. The Commission shall adopt action programmes drawn up on the basis of the strategy papers and indicative programmes referred to in Article 3. These action programmes, normally drawn up on an annual basis, shall set out the specific details concerning the implementation of assistance under this Regulation.

Exceptionally, for instance in cases where an action programme has not yet been adopted, the Commission, may, on the basis of the strategy papers and indicative programmes referred to in Article 3, adopt measures not provided for in an action programme under the same procedures as apply to action programmes.

2. These action programmes shall specify the objectives pursued, the fields of intervention, the measures envisaged, the expected results, the management procedures and total amount of financing planned. They shall contain a summary description of the operations to be financed, an indication of the amounts allocated for each operation and an indicative implementation timetable. Where relevant, they may include the results of any lessons learned from previous assistance.

3. Action programmes, and any revisions or extensions thereof, shall be adopted in accordance with the procedure referred to in Article 19(2), following, where appropriate, consultation with the partner country, or partner countries in the region concerned.

*Article 6***Special measures**

1. Notwithstanding Articles 3 to 5, the Commission may, in the event of unforeseen and urgent needs or circumstances, adopt special measures not provided for in the strategy papers and indicative programmes referred to in Article 3 or the action programmes referred to in Article 5.

2. Special measures shall specify the objectives pursued, the areas of activity, the expected results, the management procedures used and the total amount of financing planned. They shall contain a description of the operations to be financed, an indication of the amounts allocated for each operation and an indicative implementation timetable.

3. Where the cost of special measures exceeds EUR 5 000 000, the Commission shall adopt them in accordance with the procedure referred to in Article 19(2), following, where appropriate, consultation with the partner country, or partner countries in the region concerned.

4. Where the cost of special measures is EUR 5 000 000 or less, the Commission shall inform in writing the Council and the Committee set up in accordance with Article 19 within one month of adopting such measures.

Article 7

Eligibility

1. The following shall be eligible for funding under this Regulation for the purposes of implementing the action programmes referred to in Article 5 and the special measures referred to in Article 6 in so far as they can actually contribute to the purposes of the Regulation as set out in Article 2:

- (a) partner countries and regions and their institutions;
- (b) decentralised bodies in the partner countries, such as regions, departments, provinces and municipalities;
- (c) joint bodies set up by the partner countries and regions and the Community;
- (d) international organisations, including regional organisations, UN bodies, departments and missions, international financial institutions and development banks, in so far as they contribute to the objectives of this Regulation;
- (e) the Community's Joint Research Centre and European Union agencies;
- (f) the following entities and bodies of the Member States, partner countries and regions and any other third country in so far as they contribute to the objectives of this Regulation:
 - (i) public and parastatal bodies, local authorities or administrations and consortia thereof;
 - (ii) companies, firms and other private organisations and businesses;
 - (iii) financial institutions that grant, promote and finance private investment in partner countries and regions;

(iv) non-state actors as defined in paragraph 2;

(v) natural persons.

2. Non-state actors eligible for financial support under this Regulation shall include: non-governmental organisations, organisations representing indigenous peoples, local citizens' groups and traders' associations, cooperatives, trade unions, organisations representing economic and social interests, local organisations (including networks) involved in decentralised regional cooperation and integration, consumer organisations, women's and youth organisations, teaching, cultural, research and scientific organisations, universities, churches and religious associations and communities, the media and any non-governmental associations and independent foundations likely to contribute to development or the external dimension of internal policies.

Article 8

Types of measures

1. Community financing may take the following forms:

- (a) projects and programmes;
- (b) sectoral support;
- (c) contributions to guarantee funds in accordance with Article 16;
- (d) debt-relief programmes in exceptional cases, under an internationally agreed debt relief programme;
- (e) grants to fund measures;
- (f) grants to cover operating costs;
- (g) funding for twinning programmes between public institutions, national public bodies or private-law entities with a public-service mission of a Member State and those of a partner country or region;
- (h) contributions to international funds, in particular those managed by international or regional organisations;
- (i) contributions to national funds set up by partner countries and regions to attract joint financing from a number of donors, or contributions to funds set up by one or more donors for the purpose of the joint implementation of operations;
- (j) human and material resources required for effective administration and supervision of projects and programmes by partner countries and regions.

2. Activities covered by and eligible for funding under Council Regulation (EC) No 1257/96 of 20 June 1996 concerning humanitarian aid⁽¹⁴⁾ may not be funded under this Regulation.

3. Community financing shall, in principle, not be used for paying taxes, custom duties or other fiscal charges in beneficiary countries.

Article 9

Support measures

1. Community financing may cover expenditure associated with the preparation, follow up, monitoring, auditing and evaluation activities directly necessary for the implementation of this Regulation and the achievement of its objectives, e.g. studies, meetings, information, awareness-raising, training and publication activities, expenditure associated with computer networks for the exchange of information and any other administrative or technical assistance expenditure that the Commission may incur for the management of the programme. It shall also cover expenditure on administrative support staff employed at Commission Delegations to manage projects funded under this Regulation.

2. None of the support measures are necessarily covered by multi-annual programming and may therefore be financed outside the scope of strategy papers and multi-annual indicative programmes. However, they may also be financed under multi-annual indicative programmes. The Commission shall adopt support measures not covered by multi-annual indicative programmes in accordance with Article 6.

Article 10

Cofinancing

1. Measures financed under this Regulation shall be eligible for cofinancing from *inter alia* the following:

- (a) Member States, and in particular their public and parastatal agencies;
- (b) other donor countries and in particular their public and parastatal agencies;
- (c) international and regional organisations, and in particular international and regional financial institutions;

⁽¹⁴⁾ OJ L 163, 2.7.1996, p. 6. Regulation as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

(d) companies, firms, other private organisations and businesses, and other non-state actors referred to in Article 7(2);

(e) partner countries and regions in receipt of funding.

2. In the case of parallel cofinancing, the project or programme shall be split into a number of clearly identifiable sub-projects, which are each financed by different partners providing cofinancing in such a way that the end-use of the financing can always be identified. In the case of joint cofinancing, the total cost of the project or programme shall be shared between the partners providing the cofinancing and resources are pooled in such a way that it is not possible to identify the source of funding for any given activity undertaken as part of the project or programme.

3. In the case of joint cofinancing, the Commission may receive and manage funds on behalf of the bodies referred to under (a), (b) and (c) of paragraph 1 of this Article for the purpose of implementing joint measures. In this case, the Commission shall implement the measures centrally, either directly or indirectly, by delegating the task to Community agencies or bodies set up by the Community. Such funds shall be dealt with as assigned revenue in accordance with Article 18 of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities⁽¹⁵⁾.

Article 11

Management procedures

1. The measures financed under this Regulation shall be implemented in accordance with Regulation (EC, Euratom) No 1605/2002.

2. In duly justified cases, the Commission may, in accordance with Article 54 of Regulation (EC, Euratom) No 1605/2002, decide to entrust tasks of public authority, and in particular budget implementation tasks, to bodies referred in Article 54(2)(c) of Regulation (EC, Euratom) No 1605/2002 if they are of recognised international standing, comply with internationally recognised systems of management and control, and are supervised by public authority.

3. In the case of decentralised management, the Commission may decide to use the procurement or grant procedures of the beneficiary country or region.

⁽¹⁵⁾ OJ L 248, 16.9.2002, p. 1. Regulation as last amended by Regulation (EC, Euratom) No 1995/2006 (OJ L 390, 30.12.2006, p. 1).

Article 12

Budget commitments

1. Budget commitments shall be made on the basis of decisions taken by the Commission in accordance with Articles 5, 6 and 9.

2. The legal forms for Community financing shall include:

- financing agreements,
- grant agreements,
- procurement contracts,
- employment contracts.

Article 13

Protection of the financial interests of the Community

1. Any agreements resulting from this Regulation shall contain provisions ensuring the protection of the Community's financial interests, in particular with respect to fraud, corruption and any other irregularities in accordance with Council Regulations (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests ⁽¹⁶⁾ and (Euratom, EC) No 2185/96 of 11 November 1996 concerning on the spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities ⁽¹⁷⁾ and Regulation (Euratom) No 1074/99 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-fraud Office (OLAF) ⁽¹⁸⁾.

2. Agreements shall expressly entitle the Commission and the Court of Auditors to have the power of audit, on the basis of documents and on the spot, over all contractors and subcontractors who have received Community funds. They shall also expressly authorise the Commission to carry out on-the-spot checks and inspections, as provided for in Regulation (Euratom, EC) No 2185/96.

3. All contracts resulting from the implementation of assistance shall ensure the right of the Commission and the Court of Auditors, as provided for in paragraph 2, during and after the implementation of contracts.

Article 14

Rules of participation and origin

1. Participation in the award of procurement or grant contracts financed under this Regulation shall be open to all

natural persons who are nationals of or legal persons who are established in a Member State of the European Union, a country that is or has been defined as beneficiary of assistance in an Action Programme adopted under the present Regulation, a country that is beneficiary of the Instrument of Pre-Accession or the European Neighbourhood and Partnership Instrument, or a non-EU Member State of the European Economic Area.

2. The Commission may, in duly substantiated cases, authorise the participation of natural persons who are nationals of, or legal persons who are established in a country having traditional economic, trade or geographical links with a beneficiary country.

3. Participation in the award of procurement or grant contracts financed under this Regulation shall also be open to all natural persons who are nationals of, or legal persons who are established in any country other than those referred to in paragraph 1, whenever reciprocal access to their external assistance has been established. Reciprocal access shall be granted whenever a country grants eligibility on equal terms to the Member States and to the recipient country concerned.

Reciprocal access to the award of procurement or grant contracts financed under this Regulation and under other Community external assistance instruments shall be established by means of a specific decision concerning a given country or a given regional group of countries. Such a decision shall be adopted by the Commission in accordance with the procedure laid down in Article 19(2) and shall be in force for a minimum period of one year.

The granting of reciprocal access to the award of procurement or grant contracts financed under this Regulation and under other Community external assistance instruments shall be based on a comparison between the Community and other donors and shall proceed at sectoral level or entire country level, whether it be a donor or a recipient country. The decision of granting this reciprocity to a donor country shall be based on the transparency, consistency and proportionality of the aid provided by that donor, including its qualitative and quantitative nature. The beneficiary countries shall be consulted as part of the procedure described in this paragraph.

Reciprocal access to the award of procurement or grant contracts financed under this Regulation for the benefit of least-developed countries as defined by the OECD Development Assistance Committee shall automatically be granted to OECD Development Assistance Committee members.

⁽¹⁶⁾ OJ L 312, 23.12.1995, p. 1.

⁽¹⁷⁾ OJ L 292, 15.11.1996, p. 2.

⁽¹⁸⁾ OJ L 136, 31.5.1999, p. 8.

4. Participation in the award of procurement or grant contracts financed under this Regulation shall be open to international organisations.

5. Experts may be of any nationality. This is without prejudice to the qualitative and financial requirements set out in the Community's procurement rules.

6. All supplies and materials purchased under contracts financed under this Regulation must originate from the Community or a country eligible under this Article. The term 'origin' for the purpose of this Regulation is defined in the relevant Community legislation on rules of origin for customs purposes.

7. The Commission may, in duly substantiated cases, authorise the participation of natural persons who are nationals of, or legal persons who are established in other countries than those referred to in paragraphs 1, 2, and 3, or the purchase of supplies and materials of different origin from that set out in paragraph 6. Derogations may be justified on the basis of the unavailability of products and services in the markets of the countries concerned, for reasons of extreme urgency, or if the eligibility rules would make the realisation of a project, a programme or an action impossible or exceedingly difficult.

8. Whenever Community financing covers an operation implemented through an international organisation, participation in the appropriate contractual procedures shall be open to all natural or legal persons who are eligible pursuant to paragraphs 1, 2 and 3 as well as to all natural or legal persons who are eligible pursuant to the rules of that organisation, care being taken to ensure that equal treatment is afforded to all donors. The same rules shall apply in respect of supplies, materials and experts.

Whenever Community financing covers an operation cofinanced with a third country, subject to reciprocity as defined in paragraph 2, with a regional organisation, or with a Member State, participation in the appropriate contractual procedures shall be open to all natural or legal persons who are eligible pursuant to paragraphs 1, 2 and 3 as well as to all natural or legal persons who are eligible under the rules of such third country, regional organisation or Member State. The same rules shall apply in respect of supplies, materials and experts.

9. Tenderers who have been awarded contracts under this Regulation shall respect core labour standards as defined in the relevant ILO Conventions.

Article 15

Grants

In accordance with Article 114 of Regulation (EC, Euratom) No 1605/2002 natural persons may receive grants.

Article 16

Funds made available to the European Investment Bank or other financial intermediaries

The funds referred to in Article 8(1)(c) and (h) shall be managed by financial intermediaries, the European Investment Bank or any other bank or organisation capable of managing them. The Commission shall adopt implementing provisions for this Article, on a case by case basis to cover risk-sharing, the remuneration of the intermediary entrusted with the task of implementation, the use and recovery of interest on the fund, and the closure of the operation.

Article 17

Evaluation

The Commission shall regularly evaluate the results of policies and programmes and the effectiveness of programming in order to ascertain whether the objectives have been met and enable it to formulate recommendations with a view to improving future operations. The Commission shall send significant evaluation reports to the committee established in accordance with Article 19. These results shall feed back into programme design and resource allocation.

TITLE IV

FINAL PROVISIONS

Article 18

Report

The Commission shall examine progress achieved in implementing the measures undertaken pursuant to this Regulation and shall submit to the European Parliament and the Council an annual report on the implementation of the assistance. The report shall also be addressed to the Economic and Social Committee and to the Committee of Regions. The report shall contain information relating to the previous year on the measures financed, information on the results of monitoring and evaluation exercises and the implementation of budget commitments and payments, broken down by country, region and cooperation sector.

Article 19

Committee

1. The Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by the representative of the Commission.

2. Where reference is made to this paragraph, the following procedure shall apply:

(a) the representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 118(2) of the Euratom Treaty, in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote;

(b) the Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the committee, they shall be communicated by the Commission to the Council forthwith. In that event, the Commission may defer application of the measures on which it has decided for a period of 30 days;

(c) the Council, acting by qualified majority, may take a different decision within the period provided for under (b).

3. The committee shall adopt its rules of procedure, on the proposal of its chairman, on the basis of standard rules of procedure as published in the *Official Journal of the European Union*. The committee shall lay down in its rules of procedure special rules on consultation which shall enable the Commission, where necessary, to adopt special measures by an emergency procedure.

The principles and conditions on public access to documents applicable to the Commission shall apply to the committee.

The European Parliament shall be informed by the Commission of committee proceedings on a regular basis. To that end, it

shall receive agendas for committee meetings, and the results of voting and summary records of the meetings and lists of the authorities and organisations to which the persons designated by the Member States to represent them belong.

4. An observer from the European Investment Bank may take part in the committee's proceedings with regard to questions concerning the Bank.

Article 20

Financial reference amount

The financial reference amount for implementation of this Regulation over the period 2007 to 2013 shall be EUR 524 000 000.

Annual appropriations shall be authorised by the budgetary authority within the limits of the multi-annual financial framework.

Article 21

Review

Not later than 31 December 2010, the Commission shall submit to the European Parliament and the Council a report evaluating the implementation of this Regulation in the first three years together, if appropriate, with a legislative proposal introducing the necessary modifications to the instrument.

Article 22

Repeal

1. The following instruments shall be repealed as of 1 January 2007:

— Regulation (EC, Euratom) No 99/2000,

— Decision 98/381/EC, Euratom,

— Decision 2001/824/EC, Euratom.

2. The repealed instruments shall continue to apply for legal acts and commitments implementing the budget years preceding 2007.

*Article 23***Entry into force**

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2007 until 31 December 2013.

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

Done at Brussels, 19 February 2007.

For the Council
The President
M. GLOS

I

(Acts whose publication is obligatory)

**COMMISSION REGULATION (Euratom) No 302/2005
of 8 February 2005
on the application of Euratom safeguards**

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Articles 77, 78, 79 and 81 thereof,

Having regard to the approval of the Council,

Whereas:

- (1) Commission Regulation (Euratom) No 3227/76 of 19 October 1976 concerning the application of the provisions on Euratom safeguards ⁽¹⁾ defines the nature and extent of the requirements referred to in Articles 78 and 79 of the Treaty.
- (2) In view of the increasing quantities of nuclear materials produced, used, carried and recycled in the Community, of the development of trade in these materials and of the successive enlargements of the European Union, it is essential to ensure the effectiveness of safeguards. The nature and the extent of the requirements referred to in Article 79 of the Treaty and set out in Regulation (Euratom) No 3227/76 should therefore be brought up to date in the light of developments, particularly in the fields of nuclear and information technology.
- (3) Belgium, Denmark, Germany, Greece, Spain, Ireland, Italy, Luxembourg, the Netherlands, Austria, Portugal, Finland, Sweden and the European Atomic Energy Community have concluded Agreement 78/164/Euratom ⁽²⁾ with the International Atomic Energy Agency in implementation of Article III(1) and (4) of the Treaty on the Non-Proliferation of Nuclear Weapons. Agreement 78/164/Euratom entered into force on 21 February 1977 and was supplemented by Additional Protocol 1999/188/Euratom ⁽³⁾, which entered into force on 30 April 2004.
- (4) Agreement 78/164/Euratom contains a particular undertaking entered into by the Community concerning the application of safeguards on source and special fissile materials in the territories of the Member States which have no nuclear weapons of their own and which are parties to the Treaty on the Non-Proliferation of Nuclear Weapons.
- (5) The procedures stipulated by Agreement 78/164/Euratom are the result of wide-ranging international negotiations with the International Atomic Energy Agency on the application of Article III(1) and (4) of the Treaty on the Non-Proliferation of Nuclear Weapons. These procedures were approved by the Board of Governors of that Agency.

- (6) The Community, the United Kingdom and the International Atomic Energy Agency are parties to an Agreement for the application of safeguards in the United Kingdom in connection with the Treaty on the Non-Proliferation of Nuclear Weapons ⁽⁴⁾. That Agreement entered into force on 14 August 1978, and was supplemented by an Additional Protocol which entered into force on 30 April 2004.
- (7) The Community, France and the International Atomic Energy Agency are parties to an Agreement for the application of safeguards in France ⁽⁵⁾. That Agreement entered into force on 12 September 1981, and was supplemented by an Additional Protocol which entered into force on 30 April 2004.
- (8) In the territories of France and the United Kingdom some installations or parts thereof as well as certain materials are liable to be involved in the production cycle for defence needs. Special safeguard procedures should therefore be applied to take account of these circumstances.
- (9) The European Council at its meeting in Lisbon on 23 and 24 March 2000 stressed the need to foster the development of state-of-the-art information technology and other telecom networks as well as the content for those networks.
- (10) In response to Additional Protocol 1999/188/Euratom, Member States should be required to communicate certain information to the Commission including a general description of sites, advance notification of the processing of waste and reports on changes of location of certain conditioned waste.
- (11) Guidelines adopted for the application of this Regulation should fully respect the Community commitments in this field, in particular those resulting from Additional Protocol 1999/188/Euratom and the Additional Protocols to the Agreement for the application of safeguards in the United Kingdom in connection with the Treaty on the Non-Proliferation of Nuclear Weapons and to the corresponding Agreement for France.
- (12) The provisions on security added to the Commission rules of procedure ⁽⁶⁾ by Commission Decision 2001/844/EC, ECSC, Euratom ⁽⁷⁾ should apply to information, knowledge and documents acquired by the parties without prejudice to Council Regulation No 3 of 31 July 1958 implementing Article 24 of the Treaty establishing the European Atomic Energy Community ⁽⁸⁾.

⁽¹⁾ OJ L 363, 31.12.1976, p. 1. Regulation as last amended by Regulation (Euratom) No 2130/93 (OJ L 191, 31.7.1993, p. 75).

⁽²⁾ OJ L 51, 22.2.1978, p. 1.

⁽³⁾ OJ L 67, 13.3.1999, p. 1.

⁽⁴⁾ IAEA document INFCIRC/263 dated October 1978.

⁽⁵⁾ IAEA document INFCIRC/290 dated December 1981.

⁽⁶⁾ OJ L 308, 8.12.2000, p. 26. Rules of procedure as last amended by Decision 2004/563/EC, Euratom (OJ L 251, 27.7.2004, p. 9).

⁽⁷⁾ OJ L 317, 3.12.2001, p. 1.

⁽⁸⁾ OJ 17, 6.10.1958, p. 406/58.

(13) In the interests of clarity, Regulation (Euratom) No 3227/76 should be replaced by this Regulation,

HAS ADOPTED THIS REGULATION:

CHAPTER I

SCOPE AND DEFINITIONS

Article 1

Scope

This Regulation shall apply to any person or undertaking setting up or operating an installation for the production, separation, reprocessing, storage or other use of source material or special fissile material.

It shall not apply to holders of end products used for non-nuclear purposes which incorporate nuclear materials that are in practice irrecoverable.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

1. 'non-nuclear-weapon Member States' means Belgium, the Czech Republic, Denmark, Germany, Estonia, Greece, Spain, Ireland, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, the Netherlands, Austria, Poland, Portugal, Slovenia, Slovakia, Finland and Sweden;
2. 'nuclear-weapon Member States' means France and the United Kingdom;
3. 'third country' means any State which is not a member of the European Atomic Energy Community;
4. 'nuclear materials' means ores, source materials or special fissile materials as defined in Article 197 of the Treaty;
5. 'waste' means nuclear material in concentrations or chemical forms considered as irrecoverable for practical or economic reasons and which may be disposed of;
6. 'retained waste' means waste, generated from processing or from an operational accident, measured or estimated on the basis of measurements, which has been transferred to a specific location within the material balance area from which it can be retrieved;
7. 'conditioned waste' means waste, measured or estimated on the basis of measurements, which has been conditioned in such a way (for example, in glass, cement, concrete or bitumen) that it is not suitable for further nuclear use;
8. 'discards to the environment' means waste, measured or estimated on the basis of measurements, which has been irrevocably discarded to the environment as the result of a planned discharge;
9. 'categories' (of nuclear material) are natural uranium, depleted uranium, uranium enriched in uranium-235 or uranium-233, thorium, plutonium, and any other material which the Council may determine, acting by a qualified majority on a proposal from the Commission;
10. 'item' means an identifiable unit such as a fuel assembly or a fuel pin;
11. 'batch' means a portion of nuclear material handled as a unit for accounting purposes at a key measurement point and for which the composition and quantity are defined by a single set of specifications or measurements. The nuclear material may be in bulk form or contained in a number of items;
12. 'batch data' means the total weight of each category of nuclear material and, in the case of plutonium and uranium, the isotopic composition when appropriate. For reporting purposes the weights of individual items in the batch shall be added together before rounding to the nearest unit;
13. 'effective kilogram' is a special unit used in safeguarding nuclear material, obtained by taking:
 - (a) for plutonium, its weight in kilograms;
 - (b) for uranium with an enrichment of 0,01 (1 %) and above, its weight in kilograms multiplied by the square of its enrichment;
 - (c) for uranium with an enrichment below 0,01 (1 %) and above 0,005 (0,5 %), its weight in kilograms multiplied by 0,0001;

and

 - (d) for depleted uranium with an enrichment of 0,005 (0,5 %) or below, and for thorium, its weight in kilograms multiplied by 0,00005;
14. 'material balance area' means an area such that, for the purpose of establishing the material balance:
 - (a) the quantity of nuclear material in each transfer into or out of each material balance area can be determined;

and

 - (b) the physical inventory of nuclear material in each material balance area can be determined when necessary in accordance with specified procedures;

15. 'key measurement point' means a location where nuclear material appears in such a form that it may be measured to determine material flow or inventory, including but not limited to, the places where nuclear material enters, leaves or is stored in, material balance areas;
16. 'book inventory' of a material balance area means the algebraic sum of the most recent physical inventory of that material balance area, and of all inventory changes that have occurred since that physical inventory was taken;
17. 'physical inventory' means the sum of all the measured batch quantities or derived estimates of batch quantities of nuclear material on hand at a given time within a material balance area, obtained in accordance with specified procedures;
18. 'material unaccounted for' means the difference between the physical inventory and the book inventory;
19. 'shipper/receiver difference' means the difference between the quantity of nuclear material in a batch as measured at the receiving material balance area and the quantity as stated by the shipping material balance area;
20. 'source data' means those data, recorded during measurement or calibration or used to derive empirical relationships, which identify nuclear material and provide batch data, including: weight of compounds; conversion factors to determine weight of element; specific gravity; element concentration; isotopic ratios; relationship between volume and manometer readings; and relationship between plutonium produced and power generated;
21. 'site' means an area delimited by the Community and the Member State, comprising one or more installations, including closed-down installations, as defined in their relevant basic technical characteristics, whereby:
- waste treatment or waste storage installations do not constitute a site in themselves;
 - in the case of a closed-down installation where source material or special fissile material in quantities less than one effective kilogram was customarily used, the term is limited to locations with hot cells or where activities related to conversion, enrichment, fuel fabrication or reprocessing were carried out;
 - 'site' also includes all plants co-located with the installations which provide or use essential services including hot cells for processing irradiated materials not containing nuclear material; plants for the treatment, storage and disposal of waste; and buildings associated with activities specified in Annex 1 to Additional Protocol 1999/188/Euratom and identified by the State concerned;
22. 'site representative' means any person, undertaking or entity designated by the Member States being responsible for the declarations referred to in Article 3(2);
23. 'installation' means a reactor, a critical installation, a conversion plant, a fabrication plant, a reprocessing plant, an isotope separation plant, a separate storage installation, a waste treatment or waste storage installation; or any other location where source material or special fissile material is customarily used;
24. 'decommissioned installation' means an installation for which it has been verified that residual structures and equipment essential for its use have been removed or rendered inoperable so that it is not used to store and can no longer be used to handle, process or utilise source material or special fissile material;
25. 'closed-down installation' means an installation for which it has been verified that operations have been stopped and the nuclear material removed but which has not been decommissioned.

CHAPTER II

BASIC TECHNICAL CHARACTERISTICS AND PARTICULAR SAFEGUARD PROVISIONS

Article 3

Declaration of the basic technical characteristics

1. Any person or undertaking setting up or operating an installation for the production, separation, reprocessing, storage or other use of source material or special fissile material shall declare to the Commission the basic technical characteristics of the installation, using the relevant questionnaire shown in Annex I.

For the purpose of the first subparagraph 'use' of nuclear materials is taken to include, *inter alia*: power production in reactors, research in critical or zero energy installations, conversion, fabrication, reprocessing, storage, isotope separation, and ore concentration, as well as treatment or storage of waste.

For ore production, the provisions of Articles 24 and 25 apply.

2. Each Member State being a party to Additional Protocol 1999/188/Euratom, shall designate a site representative for each site on its territory who shall provide to the Commission a declaration containing a general description of the site, using the questionnaire shown in Annex II.

The declaration shall be submitted within 120 days of the date of entry into force of Additional Protocol 1999/188/Euratom in the Member State concerned and updates shall be submitted by 1 April of each year.

The declaration shall fulfil the requirements of Article 2(a)(iii) of Additional Protocol 1999/188/Euratom and shall be separate from the declaration required pursuant to paragraph 1 of this Article.

3. While the site representative carries the responsibility for the timely collection of the relevant information and the submission of the general description of the site to the Commission, the responsibility for the correctness and the completeness of the declarations remains with the persons or the undertakings setting up or operating the installation, and for buildings on a site which do not involve nuclear material with the Member State concerned. As far as possible the declarations provided for in paragraphs 1 and 2 shall be submitted in electronic form if they are kept in such form by the person or undertaking. If information is sent to the Commission both in electronic and in paper form, the paper form shall prevail.

Article 4

Time-limits

The declaration of the basic technical characteristics of new installations shall be communicated to the Commission in accordance with Article 3(1) at least 200 days before the first consignment of nuclear material is due to be received.

For new installations with an inventory or annual throughput of nuclear material of more than one effective kilogram, all relevant information relating to the owner, operator, purpose, location, type, capacity and expected commissioning date shall be communicated to the Commission at least 200 days before construction begins.

Changes in the basic technical characteristics for which advance notification is not required as specified in the particular safeguard provisions set out in Article 6, shall be communicated to the Commission within 30 days after the modification is complete.

Installations in the territory of States acceding to the European Union shall communicate to the Commission their basic technical characteristics within 30 days of the date of entry into force of this Regulation in that State, except for waste treatment or waste storage installations whose basic technical characteristics shall be communicated within 120 days of the date of entry into force of this Regulation in that State.

Using the questionnaire in Annex I, existing waste treatment or waste storage installations shall communicate to the Commission the basic technical characteristics of their installation within 120 days of the date of entry into force of this Regulation.

For other existing installations any additional information required by the questionnaire in Annex I shall be supplied within 120 days of the date of entry into force of this Regulation.

Article 5

Programme of activities

To enable the Commission to plan its safeguards activities, the persons or undertakings referred to in the first subparagraph of Article 3(1) shall communicate to the Commission the following information:

- (a) annually, an outline programme of activities on the basis of Annex XI, indicating, in particular, provisional dates for taking a physical inventory;
- (b) at least 40 days before taking a physical inventory, the programme for such work.

Changes affecting the outline programme of activities and, in particular, the taking of physical inventories shall be communicated to the Commission without delay.

Article 6

Particular safeguard provisions

1. Acting on the basis of the basic technical characteristics submitted pursuant to Article 3(1) and Article 4, the Commission shall adopt particular safeguard provisions relating to the matters set out in paragraph 2 of this Article. The particular safeguard provisions shall be drawn up by means of a Commission decision addressed to the person or undertaking concerned, taking account of operational and technical constraints and in close consultation with the person or undertaking concerned and the relevant Member State.

The person or undertaking to whom the decision of the Commission is addressed shall be notified thereof, and a copy of such notification shall be transmitted to the Member State concerned.

Until the Commission decision on particular safeguard provisions is adopted, the person or undertaking concerned shall apply the general provisions of this Regulation.

2. The particular safeguard provisions shall include the following:

- (a) the material balance areas and the selection of key measurement points for determining the flow and stocks of nuclear materials;
- (b) the changes in basic technical characteristics for which advance notification is required;
- (c) the procedures for keeping records of nuclear materials for each material balance area and for drawing up reports;

- (d) the frequency of, and procedures for, taking physical inventories for accounting purposes as part of safeguards measures;
- (e) the containment and surveillance measures, in accordance with the arrangements agreed upon with the person or undertaking concerned;
- (f) the arrangements for sample-taking by the person or undertaking concerned solely for safeguards purposes.

3. The particular safeguard provisions may also specify the content of subsequent communications required under Article 5 as well as the conditions under which shipments and receipts of nuclear material require advance notification.

4. The Commission shall reimburse the person or undertaking concerned the cost of those special services which are provided for in the particular safeguard provisions or which are provided as the result of a special request by the Commission or its inspectors, on the basis of an agreed estimate. The amount of, and arrangements for, the reimbursement shall be jointly determined by the parties concerned and shall be reviewed periodically.

CHAPTER III

NUCLEAR MATERIAL ACCOUNTANCY

Article 7

Accounting system

The persons or undertakings referred to in the first subparagraph of Article 3(1) shall maintain a system of accountancy and control for nuclear materials. This system shall include accounting and operating records and, in particular, information on the quantities, category, form and composition of these materials as provided for in Article 18, their actual location and the particular safeguards obligation as provided for in Article 17, together with details of the recipient or shipper when nuclear materials are transferred.

The system of measurements on which the records are based shall comply with the most recent international standards or shall be equivalent in quality to those standards. On the basis of these records, which shall be retained for a period of at least five years, it must be possible to draw up and substantiate the declarations made to the Commission. Accounting and operating records shall be made available to the Commission's inspectors in electronic form if they are kept in this form by the installation. Further details may be specified in the particular safeguard provisions referred to in Article 6 for each installation.

Article 8

Operating records

For each material balance area, the operating records shall include, where appropriate:

- (a) the operating data used to determine changes in the quantities and composition of nuclear material;
- (b) a list of inventory items, updated to the best extent possible, and their location;
- (c) the data, including derived estimates of random and systematic errors, obtained from the calibration of tanks and instruments as well as from sampling and analysis;
- (d) the data resulting from quality control measures applied to the nuclear material accountancy system, including derived estimates of random and systematic errors;
- (e) a description of the sequence of actions taken to prepare for, and take, a physical inventory, and to ensure that the inventory is correct and complete;
- (f) a description of the actions taken in order to ascertain the cause and magnitude of any accidental or unmeasured loss that might have occurred;
- (g) the isotopic composition of plutonium, including its decay isotopes, and reference dates, if recorded at the installation for operational needs.

When available, the data referred to in point (g) shall be communicated to the Commission on request.

Article 9

Accounting records

In respect of each material balance area the accounting records shall show the following:

- (a) all inventory changes, so that the book inventory can be determined at any time;
- (b) all measurement and counting results used to determine the physical inventory;
- (c) all corrections made to inventory changes, book inventories and physical inventories.

The accounting records relating to any inventory change and physical inventory shall show the material identification, batch data and source data for each batch. These records shall account separately for uranium, thorium and plutonium, in accordance with the categories listed in Article 18(2)(b). In addition, for each inventory change, the date of the change and, when appropriate, the dispatching material balance area or the shipper and the receiving material balance area or the recipient shall be indicated.

Article 10

Accounting reports

The persons or undertakings referred to in the first subparagraph of Article 3(1) shall provide the Commission with accounting reports.

The accounting reports shall contain the information available on the date of reporting and must be corrected at a later date if necessary. Accounting reports shall be transmitted to the Commission in electronic form, except in cases where the Commission has granted a written derogation, or the transitional arrangements specified in Article 39 apply.

On a reasoned request by the Commission, further details or explanations in connection with these reports shall be supplied within three weeks.

Article 11

Initial book inventory

The persons or undertakings referred to in the first subparagraph of Article 3(1) shall transmit to the Commission, within 30 days of the date of entry into force of this Regulation, an initial book inventory of all nuclear materials they are holding, using the format set out in Annex V. This Article does not apply to the persons or undertakings who have already transmitted an initial book inventory under Regulation (Euratom) No 3227/76, or to waste treatment or waste storage installations.

Article 12

Inventory change report

1. For each material balance area, the persons or undertakings referred to in the first subparagraph of Article 3(1) shall transmit to the Commission inventory change reports in respect of all nuclear materials using the format set out in Annex III.

Unless otherwise specified in the particular safeguard provisions referred to in Article 6 for an installation, these reports shall be sent monthly, at the latest 15 days after the end of the month, and shall state all inventory changes which have occurred or become known during that month.

2. For months in which a physical inventory is taken, and the physical inventory taking date is not the last date of the month, two separate inventory change reports shall be transmitted:

- (a) a first inventory change report containing any inventory changes up to and including the physical inventory taking date, which shall be sent at the latest, together with the second inventory change report, or together with the physical inventory listing and the material balance report if the latter are sent before the second inventory change report;
- (b) a second inventory change report containing all inventory changes from the first day after the physical inventory taking date to the end of the month which shall be sent within 15 days of the end of the month.

3. For months in which no inventory changes occur, the persons or undertakings concerned shall send the inventory change report, carrying over the ending book inventory of the previous month.

4. In order that they may be reported as a single inventory change, small inventory changes, such as transfers of samples for purposes of analysis, may be grouped together, as laid down in the particular safeguard provisions referred to in Article 6 for the installation concerned.

5. Inventory change reports may be accompanied by comments explaining the inventory changes.

Article 13

Material balance report and physical inventory listing

For each material balance area, the persons or undertakings referred to in the first subparagraph of Article 3(1) shall transmit to the Commission:

- (a) material balance reports, in the format set out in Annex IV, showing:
 - (i) beginning physical inventory;
 - (ii) inventory changes (first increases, then decreases);
 - (iii) ending book inventory;
 - (iv) ending physical inventory;
 - (v) material unaccounted for;
- (b) a physical inventory listing, in the format set out in Annex V, showing all batches separately.

The reports and the listing shall be transmitted as soon as possible and at the latest within 30 days of the date on which a physical inventory was taken.

Unless otherwise specified in the particular safeguard provisions referred to in Article 6 for an installation, a physical inventory shall be taken every calendar year and the period between two successive physical inventory takings shall not exceed 14 months.

Article 14

Special reports

The persons and undertakings referred to in the first subparagraph of Article 3(1) shall transmit to the Commission a special report whenever the circumstances referred to in Articles 15 or 22 arise.

The type of information to be supplied in such reports shall be specified in the particular safeguard provisions referred to in Article 6.

The special reports, and further details or explanations which may be requested by the Commission in connection with these reports, shall be supplied without delay.

Article 15

Unusual occurrences

A special report shall be made in the following cases:

- (a) if, as a result of any unusual incident or circumstances, it is believed that there has been or might be an increase or a loss of nuclear material in excess of the limits specified for these purposes in the particular safeguard provisions referred to in Article 6;
- (b) if the containment has unexpectedly changed from that specified in the particular safeguard provisions referred to in Article 6, to a point where an unauthorised removal of nuclear material has become possible.

The persons or undertakings concerned shall submit these reports as soon as they have become aware of any such loss or increase or sudden change in the containment conditions, or of anything which leads them to believe that there has been such an occurrence. The causes shall also be stated as soon as they are known.

Article 16

Reporting of nuclear transformations

In respect of reactors, calculated data on nuclear transformations shall be reported in the inventory change report at the latest when irradiated fuel is transferred from the reactor material balance area. In addition, other procedures for recording and reporting nuclear transformations may be specified in the particular safeguard provisions referred to in Article 6.

Article 17

Particular safeguard obligations

1. Nuclear materials subject to particular safeguard obligations entered into by the Community in an agreement concluded with a third country or an international organisation shall, unless otherwise stipulated by such an agreement, be identified separately for each obligation in the following notifications:

- (a) initial book inventory provided for in Article 11;
- (b) inventory change reports, including ending book inventories, provided for in Article 12;
- (c) material balance reports and physical inventory listings provided for in Article 13;
- (d) intended imports and exports provided for in Articles 20 and 21.

Unless specifically prohibited in any of those agreements, such separate identification shall not preclude the physical mixing of materials.

2. Paragraph 1 shall not apply to the Agreements concluded by the Community and the Member States with the International Atomic Energy Agency.

Article 18

Weight units and categories of nuclear materials

1. In any notification referred to in this Regulation, quantities of materials covered by the Regulation shall be expressed in grams.

The corresponding material accounting records shall be kept in grams or in smaller units. They shall be kept in such a manner as to render them trustworthy and, in particular, to comply with current practices in the Member States.

In the notifications, quantities may be rounded down when the first decimal is 0 to 4 and rounded up when the first decimal is 5 to 9.

2. Unless otherwise provided for in the particular safeguard provisions referred to in Article 6 the notifications shall include the following:

- (a) the total weight of the elements uranium, thorium and plutonium, and also, for enriched uranium, the total weight of the fissile isotopes;
- (b) separate material balance reports as well as separate line entries in inventory change reports and in physical inventory listings for the following categories of nuclear material:
 - (i) depleted uranium;

- (ii) natural uranium;
- (iii) uranium enriched to less than 20 %;
- (iv) uranium enriched to 20 % and above;
- (v) plutonium;
- (vi) thorium.

Article 19

Derogations

1. The Commission may grant producers and users of nuclear materials a written derogation from the rules governing the form and frequency of the notifications provided for in Articles 10 to 18, in order to take account of any particular circumstances in which safeguarded materials are used or produced.

The derogation shall be granted on submission of a request by the person or undertaking concerned using the form set out in Annex IX.

The derogation shall be granted only for a whole material balance area in which nuclear material is not processed or stored together with nuclear material for which no derogation can be granted.

2. The Commission may grant a derogation for a material balance area holding:
- (a) quantities of nuclear material commensurate with those specified in Annex I-G, which are kept in the same state for long periods;
 - (b) depleted uranium, natural uranium or thorium which is used exclusively in non-nuclear activities;
 - (c) special fissile materials when used in gram quantities or less as sensing components in instruments;
 - (d) plutonium with an isotopic concentration of plutonium-238 exceeding 80 %.

3. The persons or undertakings to whom a derogation is granted shall transmit an annual report to the Commission by 31 January of each year, using the form set out in Annex X. This report shall describe the situation at the end of the previous calendar year.

4. In the case of exports of nuclear material to a third country, the persons or undertakings to whom a derogation has been granted shall transmit a report to the Commission as soon as possible and, at the latest, within 15 days of the end of the month in which the export occurred, using the form set out in Annex X. This report shall indicate the quantity of nuclear material exported and the stock of nuclear material still subject to derogation.

5. In the case of imports of nuclear material from a third country the persons or undertakings to whom a derogation is granted shall transmit a request to the Commission to add this material to the list of materials in respect of which the derogation applies. The request shall be transmitted to the Commission as soon as the transfer date is known to the person or undertaking and, at the latest, within 15 days of the end of the month in which the transfer occurred, using the form set out in Annex IX.

6. The Commission may define other specific clauses concerning the form and the periodicity of the reports in the particular safeguard provisions referred to in Article 6.

7. If the conditions for derogation are no longer met, the derogation shall be withdrawn by the Commission, acting upon receipt of information from the person or undertaking to whom a derogation is granted.

CHAPTER IV

TRANSFERS BETWEEN STATES

Article 20

Exports and shipments

1. The persons or undertakings referred to in the first subparagraph of Article 3(1) shall give advance notification to the Commission if any source materials or special fissile materials:

- (a) are exported to a third country;
- (b) are shipped from a non-nuclear-weapon Member State to a nuclear-weapon Member State;
- (c) are shipped from a nuclear-weapon Member State to a non-nuclear-weapon Member State.

2. Advance notification is required only:

- (a) where the consignment exceeds one effective kilogram;

or

- (b) where an installation transfers a total quantity of materials to the same State that could exceed one effective kilogram in any consecutive period of twelve months, even though no single consignment exceeds one effective kilogram.

3. The notification shall be given after the conclusion of the contractual arrangements leading to the transfer, using the form set out in Annex VI, and shall reach the Commission at least eight working days before the material is to be packed for transfer.

4. If so required for reasons of physical protection, special arrangements concerning the form and transmission of the notification may be agreed upon with the Commission.

5. Exports and shipments of nuclear material contained in waste or ores are not subject to the provisions of paragraphs 1 to 4.

Article 21

Imports and receipts

1. The persons or undertakings referred to in the first subparagraph of Article 3(1) shall give advance notification to the Commission if any source materials or special fissile materials:

- (a) are imported from a third country;
- (b) are received in a non-nuclear-weapon Member State from a nuclear-weapon Member State;
- (c) are received in a nuclear-weapon Member State from a non-nuclear-weapon Member State.

2. Advance notification is required only:

- (a) where the consignment exceeds one effective kilogram;
- or
- (b) where an installation imports or receives a total quantity of materials from the same State that could exceed one effective kilogram in any consecutive period of twelve months, even though no single consignment exceeds one effective kilogram.

3. The notification shall be given as far in advance as possible of the expected arrival of the material and, at the latest, on the date of receipt, using the form set out in Annex VII, and shall reach the Commission at least five working days before the material is unpacked.

4. If so required for reasons of physical protection, special arrangements concerning the form and transmission of the notification may be agreed upon with the Commission.

5. Imports and receipts of nuclear material contained in waste or ores are not subject to the provisions of paragraphs 1 to 4.

Article 22

Loss or delay during transfer

A special report shall be submitted, as provided for in Article 14, by the persons or undertakings notifying a transfer under Articles 20 and 21 where, following exceptional circumstances or an incident, they have received information that nuclear materials have been lost or appear to be lost, or where there has been a considerable delay during transfer.

Article 23

Communication of change of date

Any change of the dates for packing before transfer, transport or unpacking of nuclear materials which have been given in the notifications provided for in Articles 20 and 21, shall be communicated without delay, with an indication of the revised dates if known, unless the change gives rise to a special report.

CHAPTER V

SPECIFIC PROVISIONS

Article 24

Ore producers

1. Any person or undertaking extracting ores in the territory of a Member State shall declare the basic technical characteristics of the ore extraction operations to the Commission, using the questionnaire in Annex I-J, within 120 days of the date of entry into force of this Regulation, and shall communicate the programme of activities in accordance with Article 5.

2. By way of derogation from Articles 7, 8 and 9, any person or undertaking extracting ores shall keep accounting records thereof indicating, in particular, the quantities of the ore extracted, with the average uranium and thorium content, and the stock of extracted ore at the mine. The records shall also contain details of shipments, stating the date, consignee and quantity in each case.

Such records shall be retained for at least five years.

*Article 25***Ore shipment/export reports**

By way of derogation from Articles 10 to 18, any person or undertaking extracting ores shall inform the Commission, using the form set out in Annex VIII of:

- (a) the amount of material dispatched from each mine, by 31 January of each year for the previous calendar year;

and

- (b) exports of ores to third countries, by the date of the dispatch at the latest.

*Article 26***Carriers and temporary storage agents**

Any person or undertaking engaged, within the territories of the Member States, in transporting, or temporarily storing during transport, nuclear materials shall accept or hand over such materials only against a duly signed and dated receipt. This receipt shall state the names of the parties handing over and receiving the materials and indicate the quantities carried as well as the category, form and composition of the materials.

If so required for reasons of physical protection, the description of the materials transferred may be replaced by a suitable identification of the consignment. Such identification shall be traceable to records held by the persons or undertakings referred to in the first subparagraph of Article 3(1).

Those records shall be retained by the contracting parties for at least five years.

*Article 27***Substitute records for carriers and temporary storage agents**

Records already held by persons or undertakings in accordance with existing regulations which apply to them in the territory of the Member States in which they operate may take the place of the records referred to in Article 26, provided that such records contain all the information required under that Article.

*Article 28***Intermediaries**

Any intermediaries taking part in the conclusion of any contract for the supply of nuclear materials, such as authorised agents, brokers or commission agents, shall keep all records relating to the transactions performed by them or on their behalf for at least five years after expiry of the contract. Such records shall contain the names of the contracting parties and indicate the date of the contract as well as the quantity, category, form, composition, origin and destination of the materials.

*Article 29***Transmission of information and data**

The Commission may transmit to the International Atomic Energy Agency information and data obtained pursuant to this Regulation.

*Article 30***Waste initial stock list and accounting records**

1. By way of derogation from Article 11, any person or undertaking treating or storing nuclear material that has previously been declared as retained or conditioned waste shall transmit to the Commission within 120 days of the date of entry into force of this Regulation, an initial stock list of all nuclear material by category.

2. Any person or undertaking treating or storing nuclear material that has previously been declared as retained or conditioned waste, shall keep accounting records thereof.

By way of derogation from Articles 7 to 11, Article 13 and Article 17(1) for material that has been previously declared as retained waste and Articles 7 to 13 and Article 17(1) for material that has previously been declared as conditioned waste, these records shall include:

- (a) the operating data used to determine changes in the quantities and composition of nuclear material;
- (b) a stock list to be updated yearly after the physical inventory taking;
- (c) a description of the sequence of actions taken to prepare for and take a physical inventory, and to ensure that the inventory is correct and complete;

- (d) a description of the actions taken in order to ascertain the cause and magnitude of any accidental loss that might have occurred;
- (e) all stock changes, so that the book inventory can be established when requested.

The reporting requirements for the processing of retained waste shall be specified in the particular safeguard provisions referred to in Article 6.

Article 31

Processing of waste

The persons or undertakings referred to in the first subparagraph of Article 3(1) shall give advance notification to the Commission of any processing campaign of material that has previously been declared as retained or conditioned waste, excluding repackaging or further conditioning without separation of elements.

This advance notification, using the form set out in Annex XII, shall include information on the amount of plutonium, high enriched uranium and uranium-233 per batch, the form (glass, high active liquid, etc.), the expected duration of the campaign, and the location of the material before and after the campaign. Such notification shall be communicated to the Commission at least 200 days before the campaign starts.

Article 32

Transfers of conditioned waste

The persons or undertakings referred to in the first subparagraph of Article 3(1) shall submit, by 31 January of each year at the latest, annual reports on:

- (a) shipments or exports of conditioned waste to an installation within or outside the territories of the Member States, using the form set out in Annex XIII;
- (b) receipts or imports of conditioned waste from an installation without a material balance area code or from an installation outside the territories of the Member States, using the form set out in Annex XIV;
- (c) changes in location of conditioned waste containing plutonium, high enriched uranium or uranium-233, using the form set out in Annex XV.

Article 33

International obligations

The provisions of this Regulation, and in particular Article 3(2), Article 31 and point (c) of Article 32, shall be applied in conformity with the obligations of the Community and non-nuclear-weapon Member States, under Additional Protocol 1999/188/Euratom.

CHAPTER VI

SPECIFIC PROVISIONS APPLICABLE IN THE TERRITORIES OF THE NUCLEAR-WEAPON MEMBER STATES

Article 34

Specific provisions for nuclear-weapon Member States

1. This Regulation shall not apply:
 - (a) to installations or parts of installations which have been assigned to meet defence requirements and which are situated in the territory of a nuclear-weapon Member State;
 - or
 - (b) to nuclear materials which have been assigned to meet defence requirements by that nuclear-weapon Member State.
2. For nuclear materials, installations or parts of installations which are liable to be assigned to meet defence requirements and which are situated in the territory of a nuclear-weapon Member State, the extent of the application of this Regulation and the procedures under it shall be defined by the Commission in consultation and in agreement with the Member State concerned, taking into account the provisions of the second paragraph of Article 84 of the Treaty.
3. Notwithstanding paragraphs 1 and 2:
 - (a) the provisions of Articles 3(1), 4 and 6 shall apply to installations or parts of installations which at certain times are operated exclusively with nuclear materials liable to be assigned to meet defence requirements but which at other times are operated exclusively with civil nuclear materials;
 - (b) the provisions of Articles 3(1), 4 and 6 shall apply, with exceptions for reasons of national security, to installations or parts of installations to which access could be restricted for such reasons but which produce, treat, separate, reprocess or use in any other way, simultaneously, both civil nuclear materials and nuclear materials assigned or liable to be assigned to meet defence requirements;

- (c) the provisions of Articles 2 and 5, Articles 7 to 32, paragraphs 1 and 2 of this Article and Articles 35, 36 and 37 shall apply in relation to all civil nuclear materials situated in the installations or parts of installations referred to in points (a) and (b) of this paragraph;
- (d) the provisions of Article 3(2), Article 31 and Article 32(c) shall not apply in the territories of nuclear-weapon Member States.

CHAPTER VII

FINAL PROVISIONS

Article 35

Confidentiality of data

The Commission provisions on security set out in Decision 2001/844/EC/ECSC/Euratom shall apply without prejudice to Regulation No 3 implementing Article 24 of the Treaty establishing the European Atomic Energy Community, to information, knowledge and documents acquired or obtained by the Commission under the present Regulation.

The security of information transmission shall be agreed between the Commission and the person, undertaking or entity concerned, and shall be in accordance with Member State requirements for the transmission of such information.

Article 36

Installations controlled from outside the Community

Where an installation is controlled by a person or undertaking established outside the Community, any obligations imposed by this Regulation shall be fulfilled by the local management of the installation.

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

Done at Brussels, 8 February 2005.

Article 37

Guidelines

The Commission shall adopt and publish Guidelines for the application of this Regulation by means of a Recommendation, and, if necessary, update them in the light of the experience gained, in close consultation with the Member States, and after having obtained observations from interested parties.

Article 38

Repeal

Regulation (Euratom) No 3227/76 is repealed.

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

Article 39

Transitional period

The Commission may grant an exemption from the obligation to use the reporting formats set out in Annexes III, IV and V. The exemption shall apply to persons or undertakings using the reporting format of Annex II, III and IV of Regulation (Euratom) No 3227/76 on the date of entry into force of this Regulation. It shall be granted for a maximum of five years from that date.

The persons or undertakings referred to in the first subparagraph of Article 3(1) shall, within a period of three years of the date of entry into force of this Regulation, inform the Commission of the date on which they intend to start using the reporting formats set out in Annexes III, IV and V. Upon duly justified request and the presentation of an implementation programme the Commission may, on a case by case basis, extend the period by up to two years.

Article 40

Entry into force

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

For the Commission
Andris PIEBALGS
Member of the Commission

ANNEX I

**QUESTIONNAIRE FOR THE DECLARATION OF THE BASIC TECHNICAL
CHARACTERISTICS OF THE INSTALLATIONS****I-A. REACTORS**

Date:

NB:

1. Under Article 79 of the Treaty, those subject to safeguards requirements shall notify the authorities of the Member State concerned of any communications they make to the Commission pursuant to Article 78 and the first paragraph of Article 79 of the Treaty.
2. The reply 'not applicable' can be given to questions which are not applicable. The Commission is still entitled to request any additional information it considers necessary in connection with the relevant questionnaire.
3. The declaration, duly completed and signed, should be forwarded to the European Commission, Euratom Safeguards, L-2920 Luxembourg.

IDENTIFICATION OF THE INSTALLATION

1. Name.
2. Location, exact address with telephone and fax numbers and e-mail address.
3. Owner (legally responsible body or individual).
4. Operator (legally responsible body or individual).
5. Present status (e.g. under construction, in operation or closed down).
6. Purpose and type.
7. Operating mode influencing its production (shift system adopted, approximate dates of operating periods in year, etc.)
8. Area layout (map showing the installation, boundaries, buildings, roads, rivers, railways, etc.)
9. Layout of installation:
 - (a) structural containment, fences and access routes;
 - (b) incoming-material storage area;
 - (c) reactor area;
 - (d) test and experiment area, laboratories;
 - (e) outgoing-material storage area;
 - (f) nuclear waste disposal area.
10. Additional data per reactor:
 - (a) nominal thermal output;
 - (b) source material or special fissile material;
 - (c) initial core enrichments;

- (d) moderator;
- (e) coolant.

GENERAL ARRANGEMENTS AT THE INSTALLATION, INCLUDING THOSE RELATING TO MATERIAL USE AND ACCOUNTANCY, CONTAINMENT AND SURVEILLANCE

Description of nuclear material (*)

11. Description of the use of nuclear material (Article 3(1)).
12. Outline drawings of fuel assemblies, fuel rods/pins, fuel plates etc., in sufficient detail to indicate general structure with overall dimensions. (Provisions for pin exchange should be described, if applicable, and an indication given if this is a routine operation.).
13. Fuel material (including material in control or shim assemblies, if applicable):
 - (a) chemical composition or main alloy constituents;
 - (b) average enrichment per assembly;
 - (c) nominal weight of nuclear material per assembly, with design tolerances.
14. Cladding material.
15. Method of identifying individual assemblies, rods/pins, plates etc., if applicable.
16. Other nuclear material used in the installation (briefly state material, purpose and method of use, e.g. as booster rods).

Flow of nuclear material

17. Flow sheet showing: points where nuclear material is identified or measured; material balance areas and inventory locations used for material accountancy; and the estimated range of nuclear material inventories at these locations under normal operating conditions.
18. Expected nominal fuel cycle data, including:
 - (a) reactor core loading;
 - (b) expected burn-up;
 - (c) annual refuelling amount;
 - (d) refuelling interval (on-load or off-load);
 - (e) forecast of throughput and inventory, and of receipts and shipments.

Handling of nuclear material

19. Layout of the fresh fuel storage area, drawings of fresh fuel storage locations, and description of packaging.
20. Drawings of fresh fuel preparation and/or assay room and reactor loading area.

(*) Items 12 to 15 are to be answered for each type of assembly in the installation. Terminology consistent with item 12 should be used.

21. Drawings of transfer equipment for fresh and irradiated fuel, including refuelling machines or equipment.
22. Drawings of reactor vessel showing location of core and openings in vessel; description of method of fuel handling in vessel.
23. Drawing of core showing: general layout, lattice, form, pitch and dimensions of core; reflector; location, shapes and dimensions of control devices; experimental and/or irradiation positions.
24. Number and size of channels for fuel assemblies and control devices in the core.
25. Spent fuel storage area:
 - (a) drawing of storage area;
 - (b) method of storage;
 - (c) design storage capacity;
 - (d) drawing of equipment for handling irradiated fuel;
 - (e) minimum cooling time before shipment of spent fuel;
 - (f) drawing and description of shipping cask for spent fuel (e.g. to determine whether sealing is possible).
26. Nuclear material testing area (if applicable):
 - (a) brief description of the activities performed;
 - (b) description of main equipment (e.g. hot cell, fuel assembly decladding and dissolving equipment);
 - (c) description of shipping containers for nuclear material and of waste and scrap packaging (e.g. to determine whether sealing is possible);
 - (d) description of storage area for non-irradiated and irradiated nuclear material;
 - (e) drawings of the above, if not covered elsewhere.

Coolant data

27. Coolant flow diagrams as required for heat balance calculations (indicating pressure, temperatures and mass flow rates at main points).

NUCLEAR MATERIAL ACCOUNTANCY AND CONTROL**Accountancy system**

28. Description of nuclear material accountancy and control system (describe item and/or mass accountancy system, including assay methods used and assessed accuracies, supplying specimen blank forms used in all accountancy and control procedures). Period during which such records must be retained should be stated.

Physical inventory

29. Description of: procedures, scheduled frequency and methods for operator's physical inventory taking (both for item and/or mass accountancy, including main assay methods and expected accuracy); access to nuclear material in the core and to irradiated nuclear material outside the core; expected radiation levels.

OTHER INFORMATION RELEVANT TO APPLICATION OF SAFEGUARDS

30. Organisational arrangements for material accountancy and control.
31. Information on the health and safety rules which have to be observed at the installation, and with which the inspectors must comply.

I-B. CRITICAL AND ZERO ENERGY INSTALLATIONS

Date:

IDENTIFICATION OF THE INSTALLATION

1. Name.
2. Location, exact address with telephone and fax numbers and e-mail addresses.
3. Owner (legally responsible body or individual).
4. Operator (legally responsible body or individual).
5. Present status (e.g. under construction, in operation or closed down).
6. Purpose and type.
7. Operating mode (shift system adopted, approximate dates of operating periods in year, etc.)
8. Area layout (map showing the installation, boundaries, buildings, roads, rivers, railways, etc.)
9. Layout of installation:
 - (a) structural containment, fences and access routes;
 - (b) nuclear material storage area(s);
 - (c) fuel element assembling area, laboratories, etc.;
 - (d) critical assembly proper (*).
10. Additional data (*):
 - (a) maximum expected operating power and/or neutron flux;
 - (b) main type(s) of nuclear material and their enrichment;
 - (c) moderator;
 - (d) reflector, blanket;
 - (e) coolant.

GENERAL ARRANGEMENTS AT THE INSTALLATION, INCLUDING THOSE RELATING TO MATERIAL USE AND ACCOUNTANCY, CONTAINMENT AND SURVEILLANCE

Description of nuclear material

11. Description of the use of nuclear material (Article 3(1)).
12. Outline drawings of fuel assemblies, fuel rods/pins, fuel plates etc., in sufficient detail to indicate general structure with overall dimensions.
13. Fuel material (including material in control or shim assemblies, if applicable).
 - (a) chemical composition or main alloy constituents;

(*) To be provided for each critical assembly if more than one in the installation.

- (b) form and dimensions;
 - (c) enrichment of fuel rods/pins, fuel plates etc.;
 - (d) nominal weight of nuclear material, with design tolerances.
14. Cladding material.
 15. Method of identifying individual assemblies, rods/pins, plates etc., if applicable.
 16. Other nuclear material used in the installation (briefly state material, purpose and method of use, e.g. as booster rods).

Location and handling of nuclear material

17. Description, including layout drawings, of:
 - (a) nuclear material storage and assembly areas and critical assembly (assemblies) proper (inventory locations);
 - (b) the estimated range of inventories of nuclear material in these locations;
 - (c) the physical arrangement of equipment used for assembling, testing and measuring nuclear material;
and
 - (d) the routes followed by nuclear material.
18. Sketch of critical assembly core showing core support structure, shielding and heat removal systems, with description (to be provided for each critical assembly if more than one in the installation).

NUCLEAR MATERIAL ACCOUNTANCY AND CONTROL

Accountancy system

19. Description of nuclear material accountancy and control system (describe item and/or mass accountancy system, including assay methods used and assessed accuracies, supplying specimen blank forms used in all accountancy and control procedures). Period during which such records must be retained should be stated.

Physical inventory

20. Description of: procedures, scheduled frequency and methods for operator's physical inventory taking (both for item and/or mass accountancy, including main assay methods and expected accuracy); access to nuclear material in the core and to irradiated nuclear material outside the core; expected radiation levels.

OTHER INFORMATION RELEVANT TO APPLICATION OF SAFEGUARDS

21. Organisational arrangements for material accountancy and control.
22. Information on the health and safety rules which have to be observed at the installation and with which the inspectors must comply.

I-C. CONVERSION, FABRICATION AND REPROCESSING INSTALLATIONS

Date:

IDENTIFICATION OF THE INSTALLATION

1. Name.
2. Location, exact address with telephone and fax numbers and e-mail addresses.
3. Owner (legally responsible body or individual).
4. Operator (legally responsible body or individual).
5. Present status (e.g. under construction, in operation or closed down).
6. Purpose and type.
7. Operating mode influencing its production (shift system adopted, approximate dates of operating periods in year, etc.)
8. Area layout (map showing the installation, boundaries, buildings, roads, rivers, railways, etc.)
9. Layout of installation:
 - (a) structural containment, fences and access routes;
 - (b) routes followed by nuclear material;
 - (c) incoming nuclear material storage area;
 - (d) each main processing area and process laboratory;
 - (e) test or experimental areas;
 - (f) outgoing nuclear material storage;
 - (g) nuclear waste disposal area;
 - (h) analytical laboratory.

GENERAL ARRANGEMENTS AT THE INSTALLATION, INCLUDING THOSE RELATING TO MATERIAL USE AND ACCOUNTANCY, CONTAINMENT AND SURVEILLANCE

Flow, location and handling of nuclear material

10. Flow sheet showing: points where nuclear material is identified or measured; material balance areas and inventory locations used for material accountancy; and the estimated range of nuclear material inventories at these locations under normal operating conditions. The description should include (if applicable):
 - (a) batch size or flow rate;
 - (b) method of storage or packing;
 - (c) storage capacity;
 - (d) general forecasts of throughput and inventory and of receipts and shipments.

11. In addition to point 10 above, a description and a layout drawing should be provided of feed storage areas for reprocessing installations, indicating:
 - (a) locations for fuel elements and handling equipment;
 - (b) type of fuel elements including nuclear material content and enrichment.
12. In addition to point 10 above, the description of the recycling stage of the process should include, if available:
 - (a) duration of temporary storage;
 - (b) schedules for external recycling (if applicable).
13. In addition to point 10 above, the description of the discard stage of the process should include the discard method (disposal or storage).
14. Under steady-state conditions, for each flow sheet referred to in points 10 and 17 and assuming the modes of operation in point 7, state:
 - (a) the nominal throughput per year;
 - (b) the in-process inventory based on design capacity.
15. Description of the normal procedures adopted for complete or partial clean-out of the plant. Include description of special sampling and measurement points associated with the clean-out procedure and subsequent physical inventory taking, if not described in point 10 above.

Description of nuclear material

16. Description of the use of nuclear material (Article 3(1)).
17. Description, by means of flow sheets or otherwise, of estimated flow and inventory of all nuclear material for storage and process areas. The description should include:
 - (a) physical and chemical form;
 - (b) content range or expected upper limits for each category of solid or liquid discard material;
 - (c) enrichment range.

NUCLEAR MATERIAL ACCOUNTANCY AND CONTROL

Accountancy system

18. Description of the accountancy system used to record and report accountancy data and establish material balances, supplying specimen blank forms used in all procedures. Period during which such records must be retained should be stated.
19. Indicate when and how often material balances are established, including those established during campaigns. Description of method and procedure for adjusting accounts after a physical inventory taking.
20. Description of procedure for handling shipper/receiver differences and method of adjusting accounts.
21. Description of procedure for correcting accounts following procedural or clerical errors and its effect on shipper/receiver differences.

Physical inventory

22. Refer to point 15. Identify items of equipment on the flow sheets referred to in points 10 and 17 that are to be regarded as containers for nuclear material under physical inventory conditions. State the schedule of physical inventory taking during the campaign.

Methods for measurement, sampling and analysis

23. Description of method for establishing each measurement at the point indicated; equations or tables used and calculations made to determine actual quantities of weights or volumes should be identified. Indicate whether data are recorded automatically or manually. Method and practical procedures for sampling at each point indicated should be described.
24. Description of analytical methods used for accountancy purposes. Refer to a manual or report, if possible.

Control of measurement accuracy

25. Description of: measurement quality control programme needed for material accountancy purposes, including programmes (together with accuracy values) for the continuing appraisal of analytical, weight, volume and sampling precisions and biases, and for the calibration of associated equipment; method of calibrating the measuring equipment referred to in point 24; type and quality of standards used for analytical methods referred to in point 24; type of analytical equipment used, indicating method and frequency of calibration.

Statistical evaluation

26. Description of methods for statistical evaluation of data collected in measurement control programmes for evaluating the precision and the accuracy of measurements and for estimating measurement uncertainties (i.e. determination of the standard deviations of random and systematic error in the measurements). Also description of statistical procedures used to combine individual error estimates to obtain the standard deviations of overall error for shipper/receiver differences, the book inventory, the physical inventory and material unaccounted for.

OTHER INFORMATION RELEVANT TO APPLICATION OF SAFEGUARDS

27. Organisational arrangements for material accountancy and control.
28. Information on the health and safety rules which have to be observed at the installation and with which the inspectors must comply.

I-D. STORAGE INSTALLATIONS (*)

Date:

IDENTIFICATION OF THE INSTALLATION

1. Name.
2. Location, exact address with telephone and fax numbers and e-mail addresses.
3. Owner (legally responsible body or individual).
4. Operator (legally responsible body or individual).
5. Present status (e.g. under construction, in operation or closed down).
6. Purpose and type.
7. Area layout (map showing the installation, boundaries, buildings, roads, rivers, railways, etc.).
8. Layout of installation, showing structural containment, fences and access routes.

GENERAL ARRANGEMENTS AT THE INSTALLATION, INCLUDING THOSE RELATING TO MATERIAL USE AND ACCOUNTANCY, CONTAINMENT AND SURVEILLANCE

Description of nuclear material

9. Description of the use of nuclear material (Article 3(1)).
10. Description, by means of drawings or otherwise, of all nuclear material in the installation, showing:
 - (a) all types of items, including normal handling equipment;
 - (b) chemical composition or main alloy constituents;
 - (c) form and dimensions;
 - (d) enrichment;
 - (e) nominal weight of nuclear material, with design tolerances;
 - (f) cladding materials;
 - (g) methods of identifying items.

Location and handling of nuclear material

11. Description, by means of layout drawings or otherwise, of:
 - (a) nuclear material storage areas (inventory locations);
 - (b) the estimated range of inventories of nuclear material in these locations;

(*) Separate installations not normally associated with reactors, with enrichment, conversion and fabrication installations, or with chemical reprocessing and recovery installations.

- (c) nuclear material storage and/or shipping containers;
- (d) the routes and equipment used for movement of nuclear material, if applicable.

NUCLEAR MATERIAL ACCOUNTANCY AND CONTROL

Accountancy system

12. Description of nuclear material accountancy and control system (describe item and/or mass accountancy system, including assay methods used and assessed accuracies, supplying specimen blank forms used in all accountancy and control procedures). Period during which such records must be retained should be stated.

Physical inventory

13. Description of procedures, scheduled frequency and methods for operator's physical inventory taking (both for item and/or mass accountancy, including main assay methods), and expected accuracy.

OTHER INFORMATION RELEVANT TO APPLICATION OF SAFEGUARDS

14. Organisational arrangements for material accountancy and control.
15. Information on the health and safety rules which have to be observed at the installation and with which the inspectors must comply.

I-E. ISOTOPE SEPARATION INSTALLATIONS

Date:

IDENTIFICATION OF THE INSTALLATION

1. Name.
2. Location, exact address with telephone and fax numbers and e-mail address.
3. Owner (legally responsible body or individual).
4. Operator (legally responsible body or individual).
5. Present status (e.g. under construction, in operation or closed down).
6. Building schedule (if installation not in operation):
 - (a) date building starts;
 - (b) date of installation acceptance;
 - (c) commissioning date.
7. Purpose and type (nominal separation capacity, enrichment facilities, etc.)
8. Operating mode influencing its production (shift system adopted, approximate periods of operating times in year, etc.)
9. Area layout (map showing the installation, boundaries, buildings, roads, rivers, railways, etc.)
10. Layout of installation:
 - (a) structural containment, fences and access routes;
 - (b) containment of certain parts of the installation;
 - (c) routes followed by nuclear material;
 - (d) incoming nuclear material storage area;
 - (e) each main processing area and process laboratory, including weighing and sampling area, decontamination, purification and feed areas, etc.;
 - (f) test or experimental areas;
 - (g) outgoing nuclear material storage area;
 - (h) nuclear waste disposal area;
 - (i) analytical laboratory.

GENERAL ARRANGEMENTS AT THE INSTALLATION, INCLUDING THOSE RELATING TO MATERIAL USE AND ACCOUNTANCY, CONTAINMENT AND SURVEILLANCE

Description of nuclear material

11. Description of the use of nuclear material (Article 3(1)).
12. Description, by means of flow sheets or otherwise, of estimated flow and inventory of all nuclear material for storage and process areas. The description should include:
 - (a) physical and chemical form;

- (b) enrichment range for feed, product and tails;
- (c) content range or expected upper limits for each category of solid or liquid discard material.

Flow, location and handling of nuclear material

13. Description, by means of diagrams or otherwise, of storage and process areas. The description should include:
 - (a) sampling and measuring points;
 - (b) batch size and/or flow rate;
 - (c) method of storage or packing;
 - (d) storage capacities.
14. In addition to point 13 above, the description of the installation should include:
 - (a) separation capacity;
 - (b) enrichment techniques or methods;
 - (c) possible points for feed, product and tails;
 - (d) recycling facilities;
 - (e) type and size of UF₆ cylinders used, filling and emptying methods.
15. Power consumption should be given, where necessary.
16. Each diagram should indicate, under steady-state conditions:
 - (a) nominal throughput per year;
 - (b) physical inventory of in-process materials;
 - (c) material loss rate owing to leakage, decomposition, deposition, etc.;
 - (d) arrangements for regular plant maintenance (periodic shutdown or continuous component replacement, etc.)
17. Description of special sampling and measurement points associated with decontamination of off-process equipment that is to be maintained or replaced.
18. Description of process waste disposal point, including disposal method, storage period, type of disposal, etc.

NUCLEAR MATERIAL ACCOUNTANCY AND CONTROL

Accountancy system

19. Description of the accountancy system used to record and report accountancy data and to establish material balances, supplying specimen blank forms used in all procedures. Period during which such records must be retained should be stated.
20. Indicate when and how often material balances are established, including any established during campaigns. Description of method and procedure for adjusting accounts after a physical inventory taking.

21. Description of procedure for handling shipper/receiver differences and method of adjusting accounts.
22. Description of procedure for correcting accounts owing to procedural or clerical errors and the effect on shipper/receiver differences, if applicable.

Physical inventory

23. Identification of items of equipment mentioned in the description referred to in points 13 and 18 that are to be regarded as containers for nuclear material under physical inventory conditions. State the timing of physical inventory taking.

Methods for measurement, sampling and analysis

24. Refer to the information given under points 13 and 17 for location of sampling and measurement points.
25. Description of method for establishing each measurement at the point indicated; equations or tables used and calculations made to determine actual quantities of weights or volumes should be identified. Indicate whether data are recorded automatically or manually. Method and practical procedures for sampling at each point indicated should be described. Indicate number of samples taken and rejection criteria.
26. Description of analytical methods used for accountancy purposes. Refer to a manual or report, if possible.

Control of measurement accuracy

27. Description of programmes for the continuous appraisal of weight, volume and sampling precision and biases, and for the calibration of associated equipment.
28. Descriptions of type and quality of standards used for analytical methods referred to in point 26, type of analytical equipment used, method and frequency of calibration.

Statistical evaluation

29. Description of methods for statistical evaluation of data collected in measurement control programmes for evaluating the precision and the accuracy of measurements and for estimating measurement uncertainties (i.e. determination of the standard deviations of random and systematic error in the measurements). Also description of statistical procedures used to combine individual error estimates to obtain the standard deviations of overall error for shipper/receiver differences, the book inventory, the physical inventory and material unaccounted for.

OTHER INFORMATION RELEVANT TO APPLICATION OF SAFEGUARDS

30. Organisational arrangements for material accountancy and control.
31. Information on the health and safety rules which have to be observed at the installation, and with which the inspectors must comply.

I-F. INSTALLATIONS USING NUCLEAR MATERIAL IN QUANTITIES EXCEEDING ONE EFFECTIVE KILOGRAM

Date:

For any installation of a type not referred to in sections A to E which uses more than one effective kilogram per annum, information should be given on the following:

- identification of the installation,
- general arrangements at the installation, including those relating to material use and accountancy, containment and surveillance,
- description of the use of nuclear material (Article 3(1)),
- nuclear material accountancy and control system, including techniques for physical inventory taking,
- other information relevant to the application of safeguards.

The information required under these headings is, where applicable, the same as that required for the types of installations coming under sections C, D and E of this Annex.

I-G. INSTALLATIONS CANDIDATE MEMBERS OF THE CATCH All MBA (CAM)

Date:

For these holders, the total inventory is calculated as the sum of the stock of each category of nuclear material held, each expressed as a percentage of the following limits:

depleted uranium	350 000 g or
thorium	200 000 g or
natural uranium	100 000 g or
low enriched uranium	1 000 g or
high enriched uranium	5 g or
plutonium	5 g

For example:

- (a) a holder with 4 g of plutonium has a percentage inventory equal to 80 % (4/5);
- (b) a holder with 1 g of high enriched uranium plus 20 000 g of natural uranium has a percentage inventory equal to 40 % (1/5 + 20 000/100 000).

IDENTIFICATION OF THE INSTALLATION AND OF THE NUCLEAR MATERIAL

1. Name.
2. Owner and/or operator.
3. Location, exact address with telephone and fax numbers and e-mail addresses.
4. Type of nuclear material.
5. Description of containers used for storage and handling.
6. Description of the use of nuclear material (Article 3(1)).

NUCLEAR MATERIAL ACCOUNTANCY AND CONTROL

The holders' obligations have been simplified as following:

A. Limits on holdings/movements

If any individual receipt of nuclear material exceeds the quantities indicated above or if the 'percentage inventory' of the installation exceeds 100 % at any time, the Commission must be notified immediately.

B. Accounting/operating records to be maintained

Accounting/operating records must be kept in a manner permitting ready verification of reports made to the Commission and of any correction thereto.

C. **Inventory change reports (ICR)**

Need be submitted only if an inventory change occurs.

A note explaining unusual inventory changes and corrections or any other piece of information included in the report should be attached. In particular, the identification and address should be given of any entity to which material is shipped (including export) or from whom material is received (including import).

Even if no inventory change occurred during the year, an ending book inventory by category as at 31 December must be declared. This declaration must be forwarded to the European Commission, Euratom Safeguards, L-2920 Luxembourg by 31 January of each year.

D. **Report form**

No special form is required for the report under C above. The report can be made by letter.

I-H. WASTE TREATMENT OR WASTE STORAGE INSTALLATIONS (*)

Date:

IDENTIFICATION OF THE INSTALLATION

1. Name.
2. Location, exact address with telephone and fax numbers and e-mail addresses.
3. Owner (legally responsible body or individual).
4. Operator (legally responsible body or individual).
5. Present status (e.g. under construction, in operation or closed down).
6. Purpose and type.
7. Area layout (map showing the installation, boundaries, buildings, roads, rivers, railways, etc).
8. Layout of installation:
 - (a) structural containment, fences and access routes;
 - (b) routes followed by nuclear material;
 - (c) nuclear waste disposal areas;
 - (d) each main processing area and process laboratory;
 - (e) test or experimental areas;
 - (f) analytical laboratory.

GENERAL ARRANGEMENTS AT THE INSTALLATION, INCLUDING THOSE RELATING TO MATERIAL USE AND ACCOUNTANCY, CONTAINMENT AND SURVEILLANCE

Locations and handling of nuclear material

9. Description of the use of nuclear material (Article 3(1)).
10. Description, by means of drawings or otherwise, of:
 - (a) nuclear material storage areas (inventory locations);
 - (b) the estimated range of inventories of nuclear material in these locations;
 - (c) nuclear material storage and/or shipping containers;
 - (d) the routes and equipment used for movement of nuclear material, if applicable.

NUCLEAR MATERIAL ACCOUNTANCY AND CONTROL

Accountancy system

11. Description of the nuclear material accountancy and control system, supplying specimen blank forms used in all accountancy and control procedures. Period during which such records must be retained should be stated.

(*) Separate installations engaged solely in the handling, storing or processing of waste materials (not forming a part of enrichment, conversion, fabrication, chemical reprocessing and recovery installations or of reactors).

Physical inventory

12. Description of procedures, scheduled frequency and methods for operator's physical inventory taking (both for item and/or mass accountancy including main assay methods), and expected accuracy.

OTHER INFORMATION RELEVANT TO APPLICATION OF SAFEGUARDS

13. Organisational arrangements for material accountancy and control.
14. Information on the health and safety rules which have to be observed at the installation and with which the inspectors must comply.

I-J. OTHER INSTALLATIONS (*)

Date:

IDENTIFICATION OF THE INSTALLATION AND OF THE NUCLEAR MATERIAL

1. Name.
2. Location, exact address with telephone and fax numbers and e-mail addresses.
3. Owner (legally responsible body or individual).
4. Operator (legally responsible body or individual).
5. Type of nuclear material.
6. Description of containers used for storage and handling (e.g. to determine whether sealing is possible).
7. Description of the use of nuclear material (Article 3(1)).
8. In the case of ore producers, the potential annual throughput of the installation.
9. The current status (e.g. under construction, in operation or closed down).

NUCLEAR MATERIAL ACCOUNTANCY AND CONTROL

10. Description of the procedures for nuclear material accountancy and control, including procedures for physical inventory taking.
11. Organisational arrangements for material accountancy and control.

(*) The term 'other' denotes all the installations not covered by sections A to H, and where nuclear material in quantities not exceeding one effective kilogram is habitually used. It also specifically includes ore producers (point 8 above).

ANNEX II

GENERAL DESCRIPTION OF THE SITE ⁽¹⁾

Site identification Declaration No ⁽²⁾ Reporting period ⁽³⁾	Declaration date Comments ⁽⁴⁾	Ref. ⁽⁶⁾	MBA code ⁽⁷⁾	Building ⁽⁸⁾	General description, including use of contents ⁽⁹⁾	Comments ⁽¹⁰⁾

Name and signature of the site representative:

Explanatory notes

- ⁽¹⁾ The initial declaration should include all nuclear installations, and all other buildings on their sites as described in Article 2(21). A separate entry should be made for each building on the site. Subsequent annual update declarations should include only those sites and buildings which have undergone a change since the previous declaration. A map of the site shall be attached with the initial declaration and updated when necessary.
- ⁽²⁾ The 'Declaration No' is a sequential number for each site, starting with '1' for the initial site declaration.
- ⁽³⁾ The 'Reporting period' for the initial declaration is an 'as of' date, while for all subsequent annual updates the appropriate entry is the beginning and the ending date of the time period. It is understood that the information provided is valid as of the ending date. All dates should be reported using the DDDMMYYYY format.
- ⁽⁴⁾ Comments applicable to the whole of the site.
- ⁽⁵⁾ Each 'Entry' in each declaration should be numbered sequentially, beginning with '1'.
- ⁽⁶⁾ The 'Ref.' column should be used to refer to another entry. The contents of the 'Ref.' column consist of the relevant declaration and entry numbers (e.g. 10-20 refers to entry 20 of declaration 10). The reference indicates that the current entry adds to or updates information reported earlier. Several references may be inserted, if necessary.
- ⁽⁷⁾ The 'MBA code' column should make reference to the MBA code to which the building in this entry belongs.
- ⁽⁸⁾ The 'Building' column should include a building number or other designation that provides an unambiguous identification of the building on the schematic map of the site.
- ⁽⁹⁾ The 'General description' for each building should include:
- (a) the approximate size of the building in terms of the number of floors and the total square metres of floor space;

- (b) the use of the building, including any prior uses of the building that might be relevant to interpreting other information, such as the results of environmental sampling, available to the Commission; and
- (c) the main contents of the building, where this is not readily apparent from the stated use.

However, descriptions of activities previously provided in the Basic Technical Characteristics questionnaire need not be repeated.

⁽¹⁰⁾ Comments applicable to each entry.

NB: Under Article 79 of the Treaty, those subject to safeguards requirements shall notify the authorities of the Member State concerned of any communications they make to the Commission pursuant to Article 78 and the first paragraph of Article 79 of the Treaty.

This form, duly completed and signed, or the equivalent form in electronic format, must be forwarded to the European Commission, Euratom Safeguards, L-2920 Luxembourg.

ANNEX III

INVENTORY CHANGE REPORT (ICR)

Label/tag	Content	Comments	#
MBA	Character (4)	MBA code of reporting MBA	1
Report type	Character (1)	I for Inventory Change Report	2
Report date	DDMMYYYY	Date on which the report was completed	3
Report number	Number (8)	Sequential number, no gaps	4
Line count	Number (8)	Total number of lines reported	5
Start report	DDMMYYYY	Date of first day in reporting period	6
End report	DDMMYYYY	Date of last day in reporting period	7
Reporting person	Character (30)	Name of person responsible for the report	8
Transaction ID	Number (8)	Sequential number	9
IC code	Character (2)	Type of inventory change	10
Batch	Character (20)	Unique identifier for a batch of nuclear material	11
KMP	Character (1)	Key measurement point	12
Measurement	Character (1)	Measurement code	13
Material form	Character (2)	Material form code	14
Material container	Character (1)	Material container code	15
Material state	Character (1)	Material state code	16
MBA from	Character (4)	MBA code of shipping MBA (for IC codes RD and RF only)	17
MBA to	Character (4)	MBA code of receiving MBA (for IC codes SD and SF only)	18
Previous batch	Character (20)	Name of previous batch (for IC code RB only)	19
Original date	DDMMYYYY	Accounting date of the line to be corrected (always of first line in correction chain)	20
PIT date	DDMMYYYY	Date of physical inventory taking (PIT) to which MF adjustment refers (use with IC code MF only)	21
Line number	Number (8)	Sequential number, no gaps	22
Accounting date	DDMMYYYY	Date on which the inventory change occurred or became known	23
Items	Number (6)	Number of items	24
Element category	Character (1)	Category of nuclear material	25
Element weight	Number (24.3)	Element weight	26
Isotope	Character (1)	G for U-235, K for U-233, J for a mixture of U-235 and U-233	27
Fissile weight	Number (24.3)	Weight of fissile isotope	28
Isotopic composition	Character(130)	U, Pu isotopic weight (only if agreed in particular safeguard provisions)	29
Obligation	Character (2)	Safeguards obligation	30
Previous category	Character (1)	Previous category of nuclear material (use for IC codes CB, CC and CE only)	31

Label/tag	Content	Comments	#
Previous obligation	Character (2)	Previous obligation (use for IC codes BR, CR, PR and SR only)	32
CAM code from	Character (8)	Code to identify the shipping small holder	33
CAM code to	Character (8)	Code to identify the receiving small holder	34
Document	Character (70)	Operator-defined reference to supporting documents	35
Container ID	Character (20)	Operator-defined identifier for the container	36
Correction	Character (1)	D for deletions, A for additions forming part of a deletion/addition pair, L for late lines (stand-alone additions)	37
Previous report	Number (8)	Report number of line to be corrected	38
Previous line	Number (8)	Line number of line to be corrected	39
Comment	Character (256)	Operator comment	40
Burn-up	Number (6)	Burn-up in MWdays/tonne (use for IC codes NL and NP in nuclear reactors only)	41
CRC	Number (20)	Hash code of line for quality control purposes	42
Previous CRC	Number (20)	Hash code of line to be corrected	43
Advance notification	Character (8)	Reference to advance notification sent to Euratom (use for IC codes RD, RF, SD and SF only)	44
Campaign	Character (12)	Campaign identifier for reprocessing installations	45
Reactor	Character (12)	Reactor code for reprocessing campaigns	46
Error path	Character (8)	Special code for evaluation purposes	47

Explanatory notes

1. MBA:

Code of the reporting material balance area. This code is notified to the installation concerned by the Commission.

2. REPORT TYPE:

I for inventory change reports.

3. REPORT DATE:

Date on which the report was completed.

4. REPORT NUMBER:

Sequential number, no gaps.

5. LINE COUNT:

Total number of lines reported.

6. START REPORT:

Date of first day of reporting period.

7. END REPORT:

Date of last day of reporting period.

8. REPORTING PERSON:

Name of person responsible for the report.

9. TRANSACTION ID:

Sequential number. This is used to identify all inventory change lines relating to the same physical transaction.

10. IC CODE:

One of the following codes must be used:

Keyword	Code	Explanation
Receipt	RD	Receipt of nuclear material from a material balance area within the European Union.
Import	RF	Import of nuclear material from a third country.
Receipt from non-safeguarded activity	RN	Receipt of nuclear material from a non-safeguarded activity (Article 34).
Shipment	SD	Transfer of nuclear material to a material balance area within the European Union.
Export	SF	Export of nuclear material to a third country
Shipment to non-safeguarded activity	SN	Transfer of nuclear material to a non-safeguarded activity (Article 34).
Transfer to conditioned waste	TC	Nuclear material contained in waste that is measured or estimated on the basis of measurements, and which has been conditioned in such a way (e.g. in glass, cement, concrete or bitumen) that it is not suitable for further nuclear use. The quantity of nuclear material involved is to be subtracted from the inventory of the material balance area. Separate records must be kept for this type of material.
Discards to the environment	TE	Nuclear material contained in waste that is measured or estimated on the basis of measurements, and which has been irrevocably discarded to the environment as the result of a planned discharge. The quantity of nuclear material involved is to be subtracted from the inventory of the material balance area.
Transfer to retained waste	TW	Nuclear material generated from processing or from an operational accident contained in waste that is measured or estimated on the basis of measurements, and which has been transferred to a specific location within the material balance area from which it could be retrieved. The quantity of nuclear material involved is to be subtracted from the inventory of the material balance area. Separate records must be kept for this type of material.
Retransfer from conditioned waste	FC	Retransfer of conditioned waste to the inventory of the material balance area. This applies whenever conditioned waste undergoes processing.
Retransfer from retained waste	FW	Retransfer of retained waste to the inventory of the material balance area. This applies whenever retained waste is retrieved from the specific location within the material balance area, either for any processing involving the separation of elements in the material balance area or for any shipment from the material balance area.
Accidental loss	LA	Irretrievable and inadvertent loss of a quantity of nuclear material as the result of an operational accident. Use of this code requires a special report to be sent to the Commission.
Accidental gain	GA	Nuclear material unexpectedly found, except when detected in the course of a physical inventory taking. Use of this code requires a special report to be sent to the Commission.
Category change	CE	Accountancy transfer of a quantity of nuclear material from one category (Article 18) to another as a result of an enrichment process (only one line to be reported per category change).
Category change	CB	Accountancy transfer of a quantity of nuclear material from one category (Article 18) to another as a result of a blending operation (only one line to be reported per category change).

Keyword	Code	Explanation
Category change	CC	Accountancy transfer of a quantity of nuclear material from one category (Article 18) to another for all types of category change not covered by codes CE and CB (only one line to be reported per category change).
Rebatching	RB	Accountancy transfer of a quantity of nuclear material from one batch to another (only one line to be reported per rebatching).
Change in particular obligation	BR	Accountancy transfer of a quantity of nuclear material from one particular safeguards obligation to another (Article 17(1)), to balance the total uranium stock following a blending operation (only one line to be reported per change of obligation).
Change in particular obligation	PR	Accountancy transfer of a quantity of nuclear material from one particular safeguards obligation to another (Article 17(1)), used when nuclear material enters or leaves an accountancy pool (only one line to be reported per change of obligation).
Change in particular obligation	SR	Accountancy transfer of a quantity of nuclear material from one particular safeguards obligation to another (Article 17(1)), following an obligation exchange or a substitution (only one line to be reported per change of obligation).
Change in particular obligation	CR	Accountancy transfer of a quantity of nuclear material from one particular safeguards obligation to another (Article 17(1)), for all cases not covered by codes BR, PR or SR (only one line to be reported per change of obligation).
Nuclear production	NP	Increase in the quantity of nuclear material due to nuclear transformation.
Nuclear loss	NL	Decrease in the quantity of nuclear material due to nuclear transformation.
Shipper/receiver difference	DI	Shipper/receiver difference (see Article 2.19).
New measurement	NM	Quantity of nuclear material, in one particular batch, accounted for in the nuclear material balance area, being the difference between a newly measured quantity and the quantity formerly accounted for, and which is neither a shipper/receiver difference nor a correction.
Balance adjustment	BJ	Quantity of nuclear material accounted for in the material balance area, being the difference between the result of a physical inventory taken by the plant operator for his own purposes (without reporting a physical inventory listing to the Commission) and the book inventory established on the same date.
Material unaccounted for	MF	Book adjustment for material unaccounted for. Must be equal to the difference between the ending physical inventory (PE) and the ending book inventory (BA) reported in the material balance report (Annex IV). The original date must be that of the physical inventory taking, while the accounting date must be after the date of the physical inventory taking.
Roundings	RA	Rounding adjustment to make the sum of the quantities reported in a given period coincide with the ending book inventory of the material balance area.
Isotope adjustment	R5	Adjustment to make the sum of the isotope quantities reported coincide with the ending book inventory for U-235 of the material balance area.
Material production	MP	Quantity of nuclear material, obtained from substances originally not subject to safeguards, which has become subject to safeguards because its concentration now exceeds the minimum levels.

Keyword	Code	Explanation
Termination of use	TU	Quantity of nuclear material considered as irrecoverable for practical or economic reasons which is: (i) incorporated in end products used for non-nuclear purposes; or (ii) contained in waste in very low concentrations measured or estimated on the basis of measurements, even if these materials are not discarded to the environment. The quantity of nuclear material involved is to be subtracted from the inventory of the material balance area.
Ending book inventory	BA	Book inventory at the end of a reporting period and at the PIT date, separate for each category of nuclear material and for each particular safeguards obligation.

11. BATCH:

The batch designation may be chosen by the operator, but:

- (a) in the case of the inventory change 'Receipt (RD)', the batch designation used by the shipper must be reported;
- (b) a batch designation must not be used again for another batch in the same material balance area.

12. KMP:

Key measurement point. The codes are notified to the installation concerned in the particular safeguard provisions. If no codes have been specified, '&' should be used.

13. MEASUREMENT:

The basis on which the quantity of nuclear material reported was established has to be indicated. One of the following codes must be used:

Measured	Estimated	Explanation
M	E	In the reporting material balance area.
N	F	In another material balance area.
T	G	In the reporting material balance area when the weights have already been given in a previous inventory change report or physical inventory listing.
L	H	In another material balance area when the weights have already been given in a previous inventory change report or physical inventory listing for the present material balance area.

14. MATERIAL FORM:

The following codes must be used:

Main type of material form	Subtype	Code
Ores		OR
Concentrates		YC
Uranium hexafluoride (UF ₆)		U6
Uranium tetrafluoride (UF ₄)		U4
Uranium dioxide (UO ₂)		U2
Uranium trioxide (UO ₃)		U3
Uranium oxide (U ₃ O ₈)		U8
Thorium oxide (ThO ₂)		T2

Main type of material form	Subtype	Code
Solutions	Nitrate	LN
	Fluoride	LF
	Other	LO
Powder	Homogeneous	PH
	Heterogeneous	PN
Ceramics	Pellets	CP
	Spheres	CS
	Other	CO
Metal	Pure	MP
	Alloys	MA
Fuel	Rods, pins	ER
	Plates	EP
	Bundles	EB
	Assemblies	EA
	Other	EO

Main type of material form	Subtype	Code
Sealed sources		QS
Small quantities/samples		SS
Scrap	Homogeneous	SH
	Heterogeneous (clean-outs, clinkers, sludges, fines, other)	SN
Solid waste	Hulls	AH
	Mixed (plastics, gloves, papers, etc.)	AM
	Contaminated equipment	AC
	Other	AO
Liquid waste	Low active	WL
	Medium active	WM
	High active	WH
Conditioned waste	Glass	NG
	Bitumen	NB
	Concrete	NC
	Other	NO

15. MATERIAL CONTAINER:

The following codes must be used:

Type of container	Code
Cylinder	C
Pack	P
Drum	D
Discrete fuel unit	S
Bird cage	B
Bottle	F
Tank or other container	T
Other	O

16. MATERIAL STATE:

The following codes must be used:

State	Code
Fresh nuclear material	F
Irradiated nuclear material	I
Waste	W
Irrecoverable material	N

17. MBA FROM:

Use only for inventory change codes RD and RF. For inventory change code RD, the code of the shipping material balance area is reported. If this code is unknown, the code 'F', 'Q' or 'W' (for the shipping MBA in France, the United Kingdom or a non-nuclear-weapon State) is reported and the shipper's full name and address must be entered in the comment field (40). For inventory change code RF, the country code of the exporting state, or the MBA code of the exporting installation if known, is reported, and the shipper's full name and address must be entered in the comment field (40).

18. MBA TO:

Use only for inventory change codes SD and SF. For inventory change code SD, the code of the receiving material balance area is reported. If this code is unknown, the code 'F', 'Q' or 'W' (for the receiving MBA in France, the United Kingdom or a non-nuclear-weapon State) is reported and the receiver's full name and address must be entered in the comment field (40). For inventory change code SF, the country code of the importing state or the MBA code of the importing installation if known, is reported, and the receiver's full name and address must be entered in the comment field (40).

19. PREVIOUS BATCH:

Batch designation before rebatching. The batch designation after the rebatching must be reported in field 11.

20. ORIGINAL DATE:

In the case of a correction, the day, month and year when the line to be corrected was originally entered must be reported. For correction chains, the original date is always the accounting date of the first line in the chain. For late lines (stand-alone additions), the original date is the date on which the inventory change occurred.

21. PIT DATE:

Date of the physical inventory taking as reported in the material balance report on which the book adjustment for MUF (material unaccounted for) is based. Use only with inventory change code MF.

22. LINE NUMBER:

Sequential number starting with 1 in each report, no gaps.

23. ACCOUNTING DATE:

Day, month and year when the inventory change occurred or became known.

24. ITEMS:

The number of items making up the batch must be reported. If an inventory change consists of several lines, the sum of the number of items reported must equal the total number of items belonging to the same transaction ID. If the transaction involves more than one element the number of items should be declared in the line(s) for the element category of highest strategic value only (in descending order: P, H, L, N, D, T).

25. ELEMENT CATEGORY:

The following codes must be used:

Category of nuclear material	Code
Plutonium	P
High enriched uranium (20 % enrichment and above)	H
Low enriched uranium (higher than natural but less than 20 % enrichment)	L
Natural uranium	N
Depleted uranium	D
Thorium	T

26. ELEMENT WEIGHT:

The weight of the element category referred to in field 25 must be reported. All weights must be reported in grams. The decimal digits appearing in the accounting lines can be reported up to a maximum of three decimal places.

27. ISOTOPE:

This code indicates the fissile isotopes involved and should be used when the weight of fissile isotopes is reported (28). Use the code G for U-235, K for U-233, and J for a mixture of U-235 and U-233.

28. FISSILE WEIGHT:

Unless otherwise stated in the particular safeguard provisions, the weight of fissile isotopes must only be reported for enriched uranium and category changes involving enriched uranium. All weights must be reported in grams. The decimal digits appearing in the accounting lines can be reported up to a maximum of three decimal places.

29. ISOTOPIC COMPOSITION:

If agreed in the particular safeguard provisions the isotopic composition of U and/or Pu must be reported in the format as a list of weights [number(18,3)] separated by semi-colons to denote the weight of U-233, U-234, U-235, U-236, U-238 or Pu-238, Pu-239, Pu-240, Pu-241, Pu-242. The decimal digits appearing in the accounting lines can be reported up to a maximum of three decimal places.

30. OBLIGATION:

Indication of the particular safeguards obligation assumed by the Community under an Agreement concluded with a third country or an international organisation, to which the material is subject (Article 17). The Commission will communicate the appropriate codes to the installations.

31. PREVIOUS CATEGORY:

Code of the category of nuclear material before the category change. The corresponding code after the change must be reported in field 25. Use only with the inventory change codes CE, CB and CC.

32. PREVIOUS OBLIGATION:

Code of the particular safeguards obligation to which the nuclear material was subject before the change. The corresponding obligation code after the change must be reported in field 30. Use only with the inventory change codes BR, CR, PR and SR.

33. CAM CODE FROM:

Code of installation of Annex I-G shipping material. The Commission will communicate to the operator or entity the appropriate code. Simplified reporting procedures apply to these operators.

34. CAM CODE TO:

Code of installation of Annex I-G receiving material. The Commission will communicate to the operator or entity the appropriate code. Simplified reporting procedures apply to these operators.

35. DOCUMENT:

Operator-defined reference to supporting document(s).

36. CONTAINER ID:

Operator-defined container number. Optional data element which can be used in those cases where the container number does not appear in the batch designation.

37. CORRECTION:

Corrections have to be made by deleting the wrong line(s) and adding the correct one(s), where appropriate. The following codes must be used:

Code	Explanation
D	Deletion. The line to be deleted must be identified by indicating in field 38 the report number (4), in field 39 the line number (22) and in field 43 the CRC (42) which were declared for the original line. Other fields need not be reported.
A	Addition (forming part of a deletion/addition pair). The correct line must be reported with all data fields, including the 'previous report' field (38) and the 'previous line' field (39). The 'previous line' field (39) must repeat the line number (22) of the line being replaced by the deletion/addition pair.
L	Late line (stand-alone addition). The late line to be added must be reported with all data fields, including the 'previous report' field (38). The 'previous report' field (38) must contain the report number (4) of the report in which the late line should have been included.

38. PREVIOUS REPORT:

Indicate the report number (4) of the line to be corrected.

39. PREVIOUS LINE:

For deletions, or additions forming part of a deletion/addition pair, indicate the line number (22) of the line to be corrected.

40. COMMENT:

Free-text comment field for short comments by operator (replaces separate concise note).

41. BURN-UP:

For inventory changes of type NP or NL in nuclear reactors, burn-up in MWdays/tonne.

42. CRC:

Hash code of line for quality control purposes. The Commission will inform the operator of the algorithm to be used.

43. PREVIOUS CRC:

Hash code of the line to be corrected.

44. ADVANCE NOTIFICATION:

Reference code for the advance notification (Articles 20 and 21). Use with inventory changes SF and RF and with those inventory changes of type SD and RD when the States where the shipper and receiver are located are not party to the same safeguards agreement with the International Atomic Energy Agency and Euratom.

45. CAMPAIGN:

Unique identifier for the reprocessing campaign. Use only for inventory changes in the process material balance area(s) of spent fuel reprocessing installations.

46. REACTOR:

Unique identifier for the reactor from which irradiated fuel is being stored or reprocessed. Use only for inventory changes in spent fuel storage or reprocessing installations.

47. ERROR PATH:

Special code describing measurement errors and their propagation, for material balance evaluation purposes. The codes are agreed between the installation and the Commission.

GENERAL REMARKS CONCERNING THE COMPLETION OF THE REPORTS

1. In the case of transfer of nuclear material, the shipper must provide the receiver with all the necessary information for the inventory change report.
 2. If numerical data contain fractions of units, a point should precede the decimal digits.
 3. The following 55 characters may be used: the 26 capital letters A to Z, figures 0 to 9 and the characters 'plus', 'minus', 'slash', 'asterisk', 'space', 'equal', 'greater than', 'less than', 'point', 'comma', 'open bracket', 'close bracket', 'colon', 'dollar', 'percent', 'quotation mark', 'semi-colon', 'question mark' and 'ampersand'
 4. Under Article 79 of the Treaty, those subject to safeguards requirements shall notify the authorities of the Member State concerned of any communications they make to the Commission pursuant to Article 78 and the first paragraph of Article 79 of the Treaty.
 5. Reports must be prepared according to a world-wide accepted labelled reporting format, agreed between the Commission and operators.
 6. The reports, duly completed and digitally signed, should be forwarded to the European Commission, Euratom Safeguards, L-2920 Luxembourg.
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ANNEX IV

MATERIAL BALANCE REPORT (MBR)

Label/tag	Content	Comments	#
MBA	Character (4)	MBA code of reporting MBA	1
Report type	Character (1)	M for Material Balance Report	2
Report date	DDMMYYYY	Date on which the report was completed	3
Start report	DDMMYYYY	Starting date of MBR (date of last PIT +1 day)	4
End report	DDMMYYYY	End date of MBR (date of current PIT)	5
Report number	Number (8)	Sequential number, no gaps	6
Element category	Character (1)	Category of nuclear material	7
Line count	Number (8)	Total number of lines reported	8
Reporting person	Character (30)	Name of person responsible for report	9
IC code	Character (2)	Type of inventory change	10
Line number	Number (8)	Sequential number, no gaps	11
Element weight	Number (24.3)	Element weight	12
Isotope	Character (1)	G for U-235, K for U-233, J for a mixture of U-235 and U-233	13
Fissile weight	Number (24.3)	Weight of fissile isotope	14
Obligation	Character (2)	Safeguards obligation	15
Correction	Character (1)	D for deletions, A for additions forming part of a deletion/addition pair, L for late lines (stand-alone additions)	16
Previous report	Number (8)	Report number of line to be corrected	17
Previous line	Number (8)	Line number of line to be corrected	18
Comment	Character (256)	Operator comment	19
CRC	Number (20)	Hash code of line for quality control purposes	20
Previous CRC	Number (20)	Hash code of line to be corrected	21

Explanatory notes

1. MBA:

Code of the reporting material balance area. This code is notified to the installation concerned by the Commission.

2. REPORT TYPE:

M for material balance reports.

3. REPORT DATE:

Date on which the report was completed.

4. START REPORT:

Start date of MBR, date of the day immediately following the day of the previous physical inventory taking.

5. END REPORT:

End date of MBR, date of current physical inventory taking.

6. REPORT NUMBER:

Sequential number, no gaps.

7. ELEMENT CATEGORY:

The following code for categories of nuclear material must be used:

Category of nuclear material	Code
Plutonium	P
High enriched uranium (20 % enrichment and above)	H
Low enriched uranium (higher than natural but less than 20 % enrichment)	L
Natural uranium	N
Depleted uranium	D
Thorium	T

8. LINE COUNT:

Total number of lines reported.

9. REPORTING PERSON:

Name of person responsible for report.

10. IC CODE:

The different types of inventory information and of inventory change should be entered in the sequence indicated below. The following codes must be used:

Keyword	Code	Explanation
Beginning physical inventory	PB	Physical inventory at the beginning of the reporting period (must be equal to the physical inventory at the end of the previous reporting period).
Inventory changes (only codes in the list below)		For each type of inventory change, one consolidated line has to be entered for the entire reporting period (first increases, then decreases).
Ending book inventory	BA	Book inventory at the end of the reporting period. It must be equal to the arithmetic sum of the MBR entries above.
Ending physical inventory	PE	Physical inventory at the end of the reporting period.
Material unaccounted for	MF	Material unaccounted for. Must be calculated as 'ending physical inventory (PE) minus 'ending book inventory (BA)'. '

For inventory changes, one of the following codes must be used:

Keyword	Code	Explanation
Receipt	RD	Receipt of nuclear material from a material balance area within the European Union.
Import	RF	Import of nuclear material from a Third Country
Receipt from non-safeguarded activity	RN	Receipt of nuclear material from a non-safeguarded activity (Article 34).
Shipment	SD	Transfer of nuclear material to a material balance area within the European Union.
Export	SF	Export of nuclear material to a Third Country.
Shipment to non-safeguarded activity	SN	Transfer of nuclear material to a non-safeguarded activity (Article 34).
Transfer to conditioned waste	TC	Nuclear material contained in waste that is measured or estimated on the basis of measurements, and which has been conditioned in such a way (e.g. in glass, cement, concrete or bitumen) that it is not suitable for further nuclear use. The quantity of nuclear material involved is to be subtracted from the inventory of the material balance area. Separate records must be kept for this type of material.
Discards to the environment	TE	Nuclear material contained in waste that is measured or estimated on the basis of measurements, and which has been irrevocably discarded to the environment as the result of a planned discharge. The quantity of nuclear material involved is to be subtracted from the inventory of the material balance area.
Transfer to retained waste	TW	Nuclear material generated from processing or from an operational accident contained in waste that is measured or estimated on the basis of measurements and which has been transferred to a specific location within the material balance area from which it could be retrieved. The quantity of nuclear material involved is to be subtracted from the inventory of the material balance area. Separate records must be kept for this type of material.
Retransfer from conditioned waste	FC	Retransfer of conditioned waste to the inventory of the material balance area. This applies whenever conditioned waste undergoes processing.
Retransfer from retained waste	FW	Retransfer of retained waste to the inventory of the material balance area. This applies whenever retained waste is retrieved from the specific location within the material balance area, either for any processing involving the separation of elements in the material balance area or for any shipment from the material balance area.
Accidental loss	LA	Irrecoverable and inadvertent loss of a quantity of nuclear material as the result of an operational accident. Use of this code in the MBR is only allowed if a special report was sent to the Commission when the inventory change occurred or became known.
Accidental gain	GA	Nuclear material unexpectedly found, except when detected in the course of a physical inventory taking. Use of this code in the MBR is only allowed if a special report was sent to the Commission when the inventory change occurred or became known.
Category change	CE	Accountancy transfer of a quantity of nuclear material from one category (Article 18) to another as a result of an enrichment process.
Category change	CB	Accountancy transfer of a quantity of nuclear material from one category (Article 18) to another as a result of a blending operation.
Category change	CC	Accountancy transfer of a quantity of nuclear material from one category (Article 18) to another for all types of category change not covered by codes CE and CB.

Keyword	Code	Explanation
Change in particular obligation	BR	Accountancy transfer of a quantity of nuclear material from one particular safeguards obligation to another (Article 17(1)), to balance the total uranium stock following a blending operation.
Change in particular obligation	PR	Accountancy transfer of a quantity of nuclear material from one particular safeguards obligation to another (Article 17(1)), used when nuclear material enters or leaves an accountancy pool.
Change in particular obligation	SR	Accountancy transfer of a quantity of nuclear material from one particular safeguards obligation to another (Article 17(1)), following an obligation exchange or a substitution.
Change in particular obligation	CR	Accountancy transfer of a quantity of nuclear material from one particular safeguards obligation to another (Article 17(1)), for all cases not covered by codes BR, PR or SR.
Nuclear production	NP	Increase in the quantity of nuclear material due to nuclear transformation.
Nuclear loss	NL	Decrease in the quantity of nuclear material due to nuclear transformation.
Shipper/receiver difference	DI	Shipper/receiver difference (See Article 2.19).
New measurement	NM	Quantity of nuclear material, in one particular batch, accounted for in the nuclear material balance area, being the difference between a newly measured quantity and the quantity formerly accounted for, and which is neither a shipper/receiver difference nor a correction.
Balance adjustment	BJ	Quantity of nuclear material accounted for in the material balance area, being the difference between the result of a physical inventory taken by the plant operator for his own purposes (without reporting a physical inventory listing to the Commission) and the book inventory established on the same date.
Roundings	RA	Rounding adjustment to make the sum of the quantities reported in a given period coincide with the ending book inventory of the material balance area.
Isotope adjustment	R5	Adjustment to make the sum of the isotope quantities reported coincide with the ending book inventory for U-235 of the material balance area.
Material production	MP	Quantity of nuclear material, obtained from substances originally not subject to safeguards, which has become subject to safeguards because its concentration now exceeds the minimum levels.
Termination of use	TU	Quantity of nuclear material considered as irrecoverable for practical or economic reasons which is: <ul style="list-style-type: none"> (i) incorporated in end products used for non-nuclear purposes; or (ii) contained in waste in very low concentrations measured or estimated on the basis of measurements, even if these materials are not discarded to the environment. <p>The quantity of nuclear material involved is to be subtracted from the inventory of the material balance area.</p>

11. LINE NUMBER:

Sequential number starting with 1, no gaps.

12. ELEMENT WEIGHT:

The weight of the element category referred to in field 7 must be reported. All weights must be reported in grams. The decimal digits appearing in the accounting lines can be reported up to a maximum of three decimal places.

13. ISOTOPE:

This code indicates the kind of fissile isotopes involved and should be used when the weight of fissile isotopes is reported. Use the code G for U-235, K for U-233, and J for a mixture of U-235 and U-233.

14. FISSILE WEIGHT:

Unless otherwise stated in the particular safeguard provisions, the weight of fissile isotopes must only be reported for enriched uranium and category changes involving enriched uranium. All weights must be reported in grams. The decimal digits appearing in the accounting lines can be reported up to a maximum of three decimal places.

15. OBLIGATION:

Indication of the particular safeguards obligation assumed by the Community under an Agreement concluded with a third country or an international organisation, to which the material is subject (Article 17). The Commission will communicate the appropriate codes to the installations.

16. CORRECTION:

Corrections have to be made by deleting the wrong line(s) and adding the correct one(s), where appropriate. The following codes must be used:

Code	Explanation
D	Deletion. The line to be deleted must be identified by indicating in field 17 the report number (6), in field 18 the line number (11) and in field 21 the CRC (20) which were declared for the original line. Other fields need not be reported.
A	Addition (forming part of a deletion/addition pair). The correct line must be reported with all data fields, including the 'previous report' field (17) and the 'previous line' field (18). The 'previous line' field (18) must repeat the line number (11) of the line being replaced by the deletion/addition pair.
L	Late line (stand-alone addition). The late line to be added must be reported with all data fields, including the 'previous report' field (17). The 'previous report' field (17) must contain the report number (6) of the report in which the late line should have been included.

17. PREVIOUS REPORT:

Indicate the report number (6) of the line to be corrected.

18. PREVIOUS LINE:

For deletions, or additions forming part of a deletion/addition pair, indicate the line number (11) of the line to be corrected.

19. COMMENT:

Free-text comment field for short comments by operator (replaces separate concise note).

20. CRC:

Hash code of line for quality control purposes. The Commission will inform the operator of the algorithm to be used.

21. PREVIOUS CRC:

Hash code of the line to be corrected.

GENERAL REMARKS CONCERNING THE COMPLETION OF THE REPORTS

General remarks 2, 3, 4, 5 and 6 at the end of Annex III apply *mutatis mutandis*.

ANNEX V

PHYSICAL INVENTORY LISTING (PIL)

Label/Tag	Content	Comments	#
MBA	Character (4)	MBA code of reporting MBA	1
Report type	Character (1)	P for physical inventory listings	2
Report date	DDMMYYYY	Date on which the report was completed	3
Report number	Number (8)	Sequential number, no gaps	4
PIT date	DDMMYYYY	Date on which the physical inventory was taken	5
Line count	Number (8)	Total number of lines reported	6
Reporting person	Character (30)	Name of person responsible for report	7
PIL_ITEM_ID	Number (8)	Sequential number	8
Batch	Character (20)	Unique identifier for a batch of nuclear material	9
KMP	Character (1)	Key measurement point	10
Measurement	Character (1)	Measurement code	11
Element category	Character (1)	Category of nuclear material	12
Material form	Character (2)	Material form code	13
Material container	Character (1)	Material container code	14
Material state	Character (1)	Material state code	15
Line number	Number (8)	Sequential number, no gaps	16
Items	Number (6)	Number of items	17
Element weight	Number (24.3)	Element weight	18
Isotope	Character (1)	G for U-235, K for U-233, J for a mixture of U-235 and U-233	19
Fissile weight	Number (24.3)	Weight of fissile isotope	20
Obligation	Character (2)	Safeguards obligation	21
Document	Character (70)	Operator-defined reference to supporting documents	22
Container ID	Character (20)	Operator-defined identifier for the container	23
Correction	Character (1)	D for deletions, A for additions forming part of a deletion/addition pair, L for late lines (stand-alone additions)	24
Previous report	Number (8)	Report number of line to be corrected	25
Previous line	Number (8)	Line number of line to be corrected	26
Comment	Character (256)	Operator comment	27
CRC	Number (20)	Hash code of line for quality control purposes	28
Previous CRC	Number (20)	Hash code of line to be corrected	29

Explanatory notes

1. MBA:

Code of the reporting material balance area. This code is notified to the installation concerned by the Commission.

2. REPORT TYPE:

P for physical inventory listings.

3. REPORT DATE:

Date on which the report was completed.

4. REPORT NUMBER:

Sequential number, no gaps.

5. PIT DATE:

Day, month and year when the physical inventory was taken, reflecting the situation at 24.00.

6. LINE COUNT:

Total number of lines reported.

7. REPORTING PERSON:

Name of person responsible for report.

8. PIL_ITEM_ID:

Sequential number, common to all PIL lines related to the same physical object.

9. BATCH:

If batch follow-up is required in the particular safeguard provisions, the batch designation previously used for the batch in an inventory change report or in a previous physical inventory listing must be used.

10. KMP:

Key measurement point. The codes are notified to the installation concerned in the particular safeguard provisions. If no code has been specified, '&' should be used.

11. MEASUREMENT:

The basis on which the quantity of nuclear material reported was established has to be indicated. One of the following codes must be used:

Measured	Estimated	Explanation
M	E	In the reporting material balance area.
N	F	In another material balance area.
T	G	In the reporting material balance area when the weights have already been given in a previous inventory change report or physical inventory listing.
L	H	In another material balance area when the weights have already been given in a previous inventory change report or physical inventory listing for the present material balance area.

12. ELEMENT CATEGORY:

The following codes must be used:

Category of nuclear material	Code
Plutonium	P
High enriched uranium (20 % enrichment and above)	H
Low enriched uranium (higher than natural and less than 20 % enrichment)	L
Natural uranium	N
Depleted uranium	D
Thorium	T

13. MATERIAL FORM:

The following codes must be used:

Main type of material form	Subtype	Code
Ores		OR
Concentrates		YC
Uranium hexafluoride (UF ₆)		U6
Uranium tetrafluoride (UF ₄)		U4
Uranium dioxide (UO ₂)		U2
Uranium trioxide (UO ₃)		U3
Uranium oxide (U ₃ O ₈)		U8
Thorium oxide (ThO ₂)		T2
Solutions	Nitrate	LN
	Fluoride	LF
	Other	LO
Powder	Homogeneous	PH
	Heterogeneous	PN
Ceramics	Pellets	CP
	Spheres	CS
	Other	CO
Metal	Pure	MP
	Alloys	MA
Fuel	Rods, pins	ER
	Plates	EP
	Bundles	EB
	Assemblies	EA
	Other	EO
Sealed sources		QS
Small quantities/samples		SS
Scrap	Homogeneous	SH
	Heterogeneous (clean-outs, clinkers, sludges, fines, other)	SN
Solid waste	Hulls	AH
	Mixed (plastics, gloves, papers, etc.)	AM
	Contaminated equipment	AC
	Other	AO
Liquid waste	Low active	WL
	Medium active	WM
	High active	WH
Conditioned waste	Glass	NG
	Bitumen	NB
	Concrete	NC
	Other	NO

14. MATERIAL CONTAINER:

The following codes must be used:

Type of container	Code
Cylinder	C
Pack	P
Drum	D
Discrete fuel unit	S
Bird cage	B
Bottle	F
Tank or other container	T
Other	O

15. MATERIAL STATE:

The following codes must be used:

State	Code
Fresh nuclear material	F
Irradiated nuclear material	I
Waste	W
Irrecoverable material	N

16. LINE NUMBER:

Sequential number starting with 1 in each report, no gaps.

17. ITEMS:

Each physical inventory line must indicate the number of items involved. If a group of items belonging to the same batch are reported as several lines, the sum of the number of items reported must equal the total number of items in the group. If the lines involve more than one element category, the number of items should be declared in the line(s) for the element category of highest strategic value only (in descending order: P, H, L, N, D, T).

18. ELEMENT WEIGHT:

The weight of the element category referred to in field 12 must be reported. All weights must be reported in grams. The decimal digits appearing in the accounting lines can be reported up to a maximum of three decimal places.

19. ISOTOPE:

This code indicates the fissile isotopes involved and should be used when the weight of fissile isotopes is reported. Use the code G for U-235, K for U-233, and J for a mixture of U-235 and U-233.

20. FISSILE WEIGHT:

Unless otherwise stated in the particular safeguard provisions, the weight of fissile isotopes must only be reported for enriched uranium and category changes involving enriched uranium. All weights must be reported in grams. The decimal digits appearing in the accounting lines can be reported up to a maximum of three decimal places.

21. OBLIGATION:

Indication of the particular safeguards obligation assumed by the Community under an Agreement concluded with a third country or an international organisation, to which the material is subject (Article 17). The Commission will communicate the appropriate codes to the installations.

22. DOCUMENT:

Operator-defined reference to supporting document(s).

23. CONTAINER ID:

Operator-defined container number. Optional data element which can be used in those cases where the container number does not appear in the batch designation.

24. CORRECTION:

Corrections have to be made by deleting the wrong line(s) and adding the correct one(s), where appropriate. The following codes must be used:

Code	Explanation
D	Deletion. The line to be deleted must be identified by indicating in field 25 the report number (4), in field 26 the line number (16) and in field 29 the CRC (28) which were declared for the original line. Other fields need not be reported.
A	Addition (forming part of a deletion/addition pair). The correct line must be reported with all data fields including the 'previous report' field (25) and the 'previous line' field (26). The 'previous line' field (26) must contain the line number (16) of the line being replaced by the deletion/addition pair.
L	Late line (stand-alone addition). The late line to be added must be reported with all data fields, including the 'previous report' field (25). The 'previous report' field (25) must contain the report number (4) of the report in which the late line should have been included.

25. PREVIOUS REPORT:

Indicate the report number (4) of the line to be corrected.

26. PREVIOUS LINE:

For deletions, or additions forming part of a deletion/addition pair, indicate the line number (16) of the line to be corrected.

27. COMMENT:

Free-text comment field for short comments by operator (replaces separate concise note).

28. CRC:

Hash code of line for quality control purposes. The Commission will inform the operator of the algorithm to be used.

29. PREVIOUS CRC:

Hash code of the line to be corrected.

GENERAL REMARKS CONCERNING THE COMPLETION OF THE REPORTS

If, on the date the physical inventory was taken, there was no nuclear material in the material balance area, only labels from 1 to 7, 16, 17 and 28 above should be completed on the report.

General remarks 2, 3, 4, 5 and 6 at the end of Annex III apply *mutatis mutandis*.

ANNEX VI

ADVANCE NOTIFICATION OF EXPORTS/SHIPMENTS OF NUCLEAR MATERIAL

EUROPEAN COMMISSION — EURATOM SAFEGUARDS

1. Reference code:
2. Material balance area code:
3. Installation (shipper):... Installation (receiver):

4. Quantities split up by category of nuclear material and particular safeguards obligation:
5. Chemical composition:
6. Enrichment or isotopic composition:
7. Physical form:
8. Number of items:
9. Description of containers and seals:
10. Shipment identification data:
11. Means of transport:
12. Location where material will be stored or prepared:
13. Last date when material can be identified:
14. Approximate dates of dispatch:
Expected dates of arrival:
15. Use:
16. Supply agency's contractual reference:

Date and place of dispatch of notification:**Name and position of signatory:****Signature:***Explanatory notes*

1. Reference code for advance notifications to be used in the inventory change report (use up to eight characters).
2. Code of the reporting material balance area as notified by the Commission to the installation concerned.
3. Name, address and country of the installation shipping, and of the installation receiving, the nuclear material. The receiver at the ultimate destination should also be indicated where applicable.
4. The total weight of the elements should be given in grams. The weight of fissile isotopes should be indicated, if applicable. The weights must be split up by category of nuclear material and particular safeguards obligation.
5. Chemical composition should be indicated.

6. If applicable, the degree of enrichment or the isotopic composition should be indicated.
7. Use the description of materials as laid out in Annex III (14) to this Regulation.
8. The number of items included in the shipment should be indicated.
9. Description (type) of containers, including features that would permit sealing.
10. Shipment identification data (e.g. container markings or numbers).
11. Indicate, where appropriate, the means of transport.
12. Indicate the location within the material balance area where the nuclear material is prepared for shipping and can be identified, and where its quantity and composition can if possible be verified.
13. Last date when material can be identified and when its quantity and composition can if possible be verified.
14. Approximate dates of dispatch and of expected arrival at destination.
15. Indicate the use to which the nuclear material has been assigned.
16. Indicate, where appropriate:
 - supply agency's contractual reference or, if not available, the date on which the contract was concluded or considered as concluded by the Supply Agency, and any useful references;
 - for jobbing contracts (Article 75 of the Treaty) and for contracts for the supply of small quantities of material (Article 74 of the Treaty, and Commission Regulation No 17/66/Euratom as amended by Regulation (Euratom) No 3137/74), the date of notification to the supply agency and any useful references.

NB: Under Article 79 of the Treaty, those subject to safeguards requirements shall notify the authorities of the Member State concerned of any communications they make to the Commission pursuant to Article 78 and the first paragraph of Article 79 of the Treaty.

This form, duly completed and signed, must be forwarded to the European Commission, Euratom Safeguards, L-2920 Luxembourg.

ANNEX VII

ADVANCE NOTIFICATION OF IMPORTS/RECEIPTS OF NUCLEAR MATERIAL

EUROPEAN COMMISSION — EURATOM SAFEGUARDS

1. Reference code:
2. Material balance area code:
3. Installation (receiver):... Installation (shipper):

4. Quantities split up by category of nuclear material and particular safeguard obligation:
5. Chemical composition:
6. Enrichment or isotopic composition:
7. Physical form:
8. Number of items:
9. Description of containers and seals:
10. Means of transport:
11. Date of arrival:
12. Location where materials will be unpacked:
13. Date(s) when materials will be unpacked:
14. Supply agency's contractual reference:

Date and place of dispatch of notification:**Name and position of signatory:****Signature:***Explanatory notes*

1. Reference code for advance notifications to be used in the inventory change report (use up to eight characters).
2. Code of the reporting material balance area as notified by the Commission to the installation concerned.
3. Name, address and country of the installation receiving, and of the installation shipping, the nuclear material.
4. The total weight of the elements should be given in grams. The weight of fissile isotopes shall be indicated if applicable. The weights must be split up by category of nuclear material and particular safeguards obligation.
5. Chemical composition should be indicated.
6. If applicable, the degree of enrichment or the isotopic composition should be indicated.
7. Use the description of materials as laid out in Annex III (14) to this Regulation.
8. The number of items included in the shipment shall be indicated.
9. Description (type) of containers and, if possible, of the seals affixed.
10. Indicate, where appropriate, the means of transport.

11. Expected or actual date of arrival in the reporting material balance area.
12. Indicate the location within the material balance area where the material will be unpacked and can be identified, and where its quantity and composition can be verified.
13. Date(s) when material will be unpacked.
14. Indicate, where appropriate:
 - supply agency's contractual reference or, if not available, the date on which the contract was concluded or considered as concluded by the Supply Agency, and any useful references,
 - for jobbing contracts (Article 75 of the Treaty) and for contracts for the supply of small quantities of material (Article 74 of the Treaty, and Commission Regulation No 17/66/Euratom as amended by Regulation (Euratom) No 3137/74), the date of notification to the supply agency and any useful references.

NB: Under Article 79 of the Treaty, those subject to safeguards requirements shall notify the authorities of the Member State concerned of any communications they make to the Commission pursuant to Article 78 and the first paragraph of Article 79 of the Treaty.

This form, duly completed and signed, must be forwarded to the European Commission, Euratom Safeguards, L-2920 Luxembourg.

ANNEX VIII

REPORT OF ORE EXPORTS/SHIPMENTS ⁽¹⁾

EUROPEAN COMMISSION — EURATOM SAFEGUARDS

Undertaking ⁽²⁾:Mine ⁽³⁾:Code ⁽⁴⁾:

Year:

Date	Consignee	Quantity contained in g:		Remarks
		of uranium	of thorium	

Date and place of dispatch of report:**Name and position of signatory:****Signature:***Explanatory notes*

⁽¹⁾ The shipment report is to be made at the latest by the end of January of each year for the previous year, with a separate entry for each consignee. The export report is to be made for each export consignment at the date of shipment.

⁽²⁾ Name and address of the reporting undertaking.

⁽³⁾ Name of the mine in respect of which the report is made.

⁽⁴⁾ Code of the mine as notified to the undertaking by the Commission.

NB: Under Article 79 of the Treaty, those subject to safeguards requirements shall notify the authorities of the Member State concerned of any communications they make to the Commission pursuant to Article 78 and the first paragraph of Article 79 of the Treaty.

This form, duly completed and signed, must be forwarded to the European Commission, Euratom Safeguards, L-2920 Luxembourg.

ANNEX IX

REQUEST FOR DEROGATION OF AN INSTALLATION FROM THE RULES GOVERNING THE FORM AND FREQUENCY OF NOTIFICATIONS**EUROPEAN COMMISSION — EURATOM SAFEGUARDS**

1. Date:
2. Installation:
3. Material balance area code:
4. Category of nuclear material:
5. Enrichment or isotopic composition:
6. Quantities:
7. Chemical composition:
8. Physical form:
9. Number of items:
10. Type of derogation (Article 19(2)):
 - (a) small quantities kept unchanged for a long period
 - (b) non-nuclear activities
 - (c) sensing components
 - (d) Pu with Pu-238 content greater than 80 %
11. Intended use:
12. Particular safeguards obligation:
13. Date of transfer... From

Date and place of dispatch of request:

Name and position of signatory:

Signature:

Derogation granted as above...

Date:

Name and position of signatory granting the derogation:

Signature:... *(for the Commission)*

Explanatory Notes

This form should be used either when the initial request is made for derogation of an installation from the rules governing the form and frequency of notifications, or when nuclear material which may qualify for a derogation is imported from a third country.

Point 13 should be used only in the case of imports, and should state the name and address of the shipper.

A separate request should be submitted for each type of derogation (Article 19(2)).

NB: Under Article 79 of the Treaty, those subject to safeguards requirements shall notify the authorities of the Member State concerned of any communications they make to the Commission pursuant to Article 78 and the first paragraph of Article 79 of the Treaty.

This form, duly completed and signed, must be forwarded to the European Commission, Euratom Safeguards, L-2920 Luxembourg.

ANNEX X

ANNUAL REPORT OR EXPORT REPORT FOR DEROGATED NUCLEAR MATERIAL ⁽¹⁾

EUROPEAN COMMISSION — EURATOM SAFEGUARDS

MBA code:

Declaration date:

Reporting period:

Declaration No:
from:Name of the installation:
to:

Type of report ⁽²⁾	Entry ⁽³⁾	Ref. ⁽⁴⁾		Inventory change information ⁽⁵⁾	MBA code or name and address of corresponding installation	Element	Enrichment	Weight of element	Use		Type of derogation under Article 19(2)
		Declaration	Entry						Nuclear or non-nuclear ⁽⁶⁾	Description ⁽⁷⁾	

Date and place of dispatch of report:**Name and position of signatory:****Signature:***Explanatory Notes*

- ⁽¹⁾ This form should be used either as an annual report to declare any changes in the inventory of nuclear material held by the MBA to which a derogation has been granted as well as the stocks at the beginning and at the end of the reporting period (Article 19(3)), or as an export report in the case of exports to a third country (Article 19(4)).
- ⁽²⁾ The 'Type of report' column should show 'A' when the form is used for an annual report or 'EXP' when the form is used to report exports of nuclear material from the MBA to which a derogation has been granted.
- ⁽³⁾ 'Entry' in each declaration should be numbered sequentially, beginning with '1'.
- ⁽⁴⁾ The 'Ref.' column should be used to refer to another entry. The contents of the 'Ref.' column consist of the relevant declaration and entry numbers. The reference indicates that the current entry adds to or updates information reported earlier.
- ⁽⁵⁾ The 'Inventory change information' column should be used to state the type of inventory change that occurred during the reporting period and/or the stock at the beginning and at the end of the reporting period. The IC codes of Annex III should be used. The code BB should be used to update the stock at the beginning of the period.
- A separate entry should be made for each type of derogation, for each corresponding installation and for each type of inventory change.
- ⁽⁶⁾ The 'Nuclear or non-nuclear' column should show 'N' if the nuclear material is used in nuclear activities or 'NN' if it is used in non-nuclear activities.
- ⁽⁷⁾ The 'Description' column should indicate the actual or intended use of the nuclear material.

NB: Under Article 79 of the Treaty, those subject to safeguards requirements shall notify the authorities of the Member State concerned of any communications they make to the Commission pursuant to Article 78 and the first paragraph of Article 79 of the Treaty.

This form, duly completed and signed, must be forwarded to the European Commission, Euratom Safeguards, L-2920 Luxembourg.

ANNEX XI

OUTLINE PROGRAMME OF ACTIVITIES

EUROPEAN COMMISSION — EURATOM SAFEGUARDS

Communications should, if possible, cover the next two years.

In particular, communications should indicate:

- types of operations, e.g. proposed campaigns with indication of type and quantity of fuel elements to be fabricated or reprocessed, enrichment programmes, reactor operating programmes, with planned shutdowns,
- expected schedule of arrival of materials, stating the amount of material per batch, the form (UF₆, UO₂, fresh or irradiated fuels, etc.), anticipated type of container or packaging,
- anticipated schedule of waste processing campaigns (other than repackaging, or further conditioning without separation of elements), stating the amount of material per batch, the form (glass, high active liquid, etc.), anticipated duration and location,
- dates by which the quantity of material in products is expected to be determined, and dates of dispatch,
- dates and duration of physical inventory taking.

NB: Under Article 79 of the Treaty, those subject to safeguards requirements shall notify the authorities of the Member State concerned of any communications they make to the Commission pursuant to Article 78 and the first paragraph of Article 79 of the Treaty.

This communication, duly completed and signed, must be forwarded to the European Commission, Euratom Safeguards, L-2920 Luxembourg.

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ANNEX XII

ADVANCE NOTIFICATION OF FURTHER WASTE PROCESSING ACTIVITIES ⁽¹⁾

EUROPEAN COMMISSION — EURATOM SAFEGUARDS

Name of installation:

Declaration date:

Declaration No:

Entry ⁽²⁾	Ref. ⁽³⁾	Waste type prior to conditioning ⁽⁴⁾	Conditioned form ⁽⁵⁾	Number of items ⁽⁶⁾	Quantity ⁽⁷⁾			Location ⁽⁸⁾	Processing location ⁽⁹⁾	Processing dates ⁽¹⁰⁾	Processing purpose ⁽¹¹⁾
					Pu	HEU	U-233				

Date and place of dispatch of report:**Name and position of signatory:****Signature:***Explanatory notes*

- ⁽¹⁾ This form should be used for advance notification when further processing of waste is planned in accordance with Article 31. Any subsequent change in processing dates or processing location should also be notified. A separate entry should be made for each campaign of further processing other than repackaging of the waste, or its further conditioning not involving the separation of elements, carried out for storage or disposal purposes.
- ⁽²⁾ 'Entry' in each declaration should be numbered sequentially, beginning with '1'.
- ⁽³⁾ The 'Ref.' column should be used to refer to another entry. The contents of the 'Ref.' column consist of the relevant declaration and entry numbers (e.g. 10-20 refers to entry 20 of declaration 10). The reference indicates that the current entry adds to or updates information reported earlier. Several references may be inserted, if necessary.
- ⁽⁴⁾ The 'Waste type prior to conditioning' column should state the type of waste before any conditioning took place, e.g. hulls, feed clarification sludge, high active liquid, or intermediate active liquid.
- ⁽⁵⁾ The 'Conditioned form' column should show the current conditioned form of the waste, e.g. glass, ceramic, cement or bitumen.
- ⁽⁶⁾ The 'Number of items' column should show the number of items, e.g. glass canisters or cement blocks, to be involved in a single processing campaign.
- ⁽⁷⁾ The 'Quantity' column should include, if available, the total amount, in grams, of plutonium, high enriched uranium or uranium-233 contained in the items entered in the 'Number of Items' column. The entry in the 'Quantity' column may be based on the quantity data used in the inventory change reports, and does not require a measurement of each item.
- ⁽⁸⁾ The 'Location' column should include the name and address of the installation and should show the location of the waste at the time of the declaration. The address must be sufficiently detailed to indicate the geographical position of the location in relation to other locations specified in this or other declarations, and to indicate how the location may be reached should access be necessary. If a location is on the site of a nuclear installation, the installation code should be included in the location column.
- ⁽⁹⁾ The 'Processing location' column should show the location where the planned processing is to take place.

- (¹⁰) The 'Processing dates' column should indicate the dates on which the further processing campaign is expected to begin and to end.
- (¹¹) The 'Processing purpose' column should indicate the intended result of the processing, e.g. recovery of plutonium or separation of specified fission products.

NB: Under Article 79 of the Treaty, those subject to safeguards requirements shall notify the authorities of the Member State concerned of any communications they make to the Commission pursuant to Article 78 and the first paragraph of Article 79 of the Treaty.

This form, duly completed and signed, must be forwarded to the European Commission, Euratom Safeguards, L-2920 Luxembourg.

ANNEX XIII

ANNUAL REPORT ON EXPORTS/SHIPMENTS OF CONDITIONED WASTE ⁽¹⁾

EUROPEAN COMMISSION — EURATOM SAFEGUARDS

Name of the shipping installation:

MBA code of the shipping installation:

Reporting period from

to

Date	MBA code of the receiving installation or Name and address of the receiving installation ⁽²⁾	Conditioned form ⁽³⁾	Quantity ⁽⁴⁾	Remarks
			g of P g of U-235 g of U g of T	
			g of P g of U-235 g of U g of T	
			g of P g of U-235 g of U g of T	
			g of P g of U-235 g of U g of T	

Date and place of dispatch of report:**Name and position of signatory:****Signature:***Explanatory notes*

- ⁽¹⁾ This report shall include all the shipments or exports of conditioned waste to installations within or outside the territories of the Member States that have occurred during the reporting period.
- ⁽²⁾ MBA code to be filled in for shipments to installations within the territories of the Member States, full name and address to be filled in for exports to installations outside the territories of the Member States, or when the MBA code is unknown.
- ⁽³⁾ The 'Conditioned form' column should show the conditioned form of the waste, e.g. glass, ceramic, cement or bitumen.
- ⁽⁴⁾ The quantity column may be based on the quantity data recorded at the installation and does not require measurements of the items exported/shipped.

NB: Under Article 79 of the Treaty, those subject to safeguards requirements shall notify the authorities of the Member State concerned of any communications they make to the Commission pursuant to Article 78 and the first paragraph of Article 79 of the Treaty.

This form, duly completed and signed, must be forwarded to the European Commission, Euratom Safeguards, L-2920 Luxembourg.

ANNEX XIV

ANNUAL REPORT ON IMPORTS/RECEIPTS OF CONDITIONED WASTE ⁽¹⁾

EUROPEAN COMMISSION — EURATOM SAFEGUARDS

Name of the receiving installation: _____
 MBA code of the receiving installation: _____

Reporting period from _____ to _____

Date	Name, address and, if known, MBA code of the shipping installation	Conditioned form ⁽²⁾	Quantity ⁽³⁾	Remarks
			g of P g of U-235 g of U g of T	
			g of P g of U-235 g of U g of T	
			g of P g of U-235 g of U g of T	
			g of P g of U-235 g of U g of T	

Date and place of dispatch of report: _____

Name and position of signatory: _____

Signature: _____

Explanatory notes

- ⁽¹⁾ This report is required for conditioned waste which has been received from installations without an MBA code or from installations outside the territories of the Member States.
⁽²⁾ The 'Conditioned form' column should show the conditioned form of the waste, e.g. glass, ceramic, cement or bitumen.
⁽³⁾ The quantity column may be based on the quantity data recorded at the installation and does not require measurements of the items imported/received.

NB: Under Article 79 of the Treaty, those subject to safeguards requirements shall notify the authorities of the Member State concerned of any communications they make to the Commission pursuant to Article 78 and the first paragraph of Article 79 of the Treaty.

This form, duly completed and signed, must be forwarded to the European Commission, Euratom Safeguards, L-2920 Luxembourg.

ANNEX XV

ANNUAL REPORT ON CHANGES IN LOCATION OF CONDITIONED WASTE ⁽¹⁾

EUROPEAN COMMISSION — EURATOM SAFEGUARDS

Name of installation:

Declaration date:

Declaration No:

Reporting period:

Entry ⁽²⁾	Ref. ⁽³⁾	Waste type prior to conditioning ⁽⁴⁾	Conditioned form ⁽⁵⁾	Number of items ⁽⁶⁾	Quantity ⁽⁷⁾			Previous location ⁽⁸⁾	New location ⁽⁹⁾
					Pu	HEU	U-233		

NB: All transfers of conditioned waste should be grouped by type of waste (prior to conditioning and after conditioning) and by previous location

Date and place of dispatch of report:**Name and position of signatory:****Signature:***Explanatory notes*

- ⁽¹⁾ Annual report to declare any changes in location of wastes covered by point (c) of Article 32 that occurred during the preceding calendar year. A separate entry is required for each change of location during the year.
- ⁽²⁾ 'Entry' in each declaration should be numbered sequentially, beginning with '1'.
- ⁽³⁾ The 'Ref.' column should be used to refer in the current entry to another entry. The contents of the 'Ref.' column consist of the relevant declaration and entry numbers (e.g. 10—20 provides a reference to entry 20 of declaration 10). The reference indicates that the current entry adds to or updates information in another entry earlier declared. Several references may be reported, if necessary.
- ⁽⁴⁾ The 'Waste type prior to conditioning' column should show the type of waste before any conditioning took place, e.g. hulls, feed clarification sludge, high active liquid, or intermediate active liquid.
- ⁽⁵⁾ The 'Conditioned form' column should show the current conditioned form of the waste, e.g. glass, ceramic, cement or bitumen.
- ⁽⁶⁾ The 'Number of items' column should show the number of items, e.g. glass canisters or cement blocks, to be involved in a single processing campaign or the number of items moved during the year from the same originating ('previous') location to the same new location.
- ⁽⁷⁾ The 'Quantity' column should include (if available) the total amount, in grams, of plutonium, high enriched uranium or uranium-233 contained in the items entered in the 'Number of Items' column. The 'Quantity' column may be based on the quantity data used in the inventory change reports, e.g. the average quantity of nuclear material per item, and does not require a measurement of each item.
- ⁽⁸⁾ The 'Previous location' column should indicate the location of the waste before the change in location (see also explanatory note no 8 for Annex XII).
- ⁽⁹⁾ The 'New location' column should indicate the location after the change (see also explanatory note no 8 for Annex XII).

NB: Under Article 79 of the Treaty, those subject to safeguards requirements shall notify the authorities of the Member State concerned of any communications they make to the Commission pursuant to Article 78 and the first paragraph of Article 79 of the Treaty.

This form, duly completed and signed, must be forwarded to the European Commission, Euratom Safeguards, L-2920 Luxembourg.

I

(Acts whose publication is obligatory)

REGULATION (EC) No 1013/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 14 June 2006
on shipments of waste

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

- (1) The main and predominant objective and component of this Regulation is the protection of the environment, its effects on international trade being only incidental.
- (2) Council Regulation (EEC) No 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community ⁽³⁾ has already been significantly amended on several occasions and requires further amendment. It is necessary, in particular, to incorporate in that Regulation the content of Commission Decision 94/774/EC of 24 November 1994 concerning the standard consignment note referred to in Council Regulation (EEC) No 259/93 ⁽⁴⁾ and of Commission Decision 1999/412/EC of 3 June 1999 concerning a questionnaire for the reporting obligation of Member States pursuant to Article 41(2) of Council Regulation (EEC) No 259/93 ⁽⁵⁾. Regulation (EEC) No 259/93 should therefore be replaced in the interests of clarity.

- (3) Council Decision 93/98/EEC ⁽⁶⁾ concerned the conclusion, on behalf of the Community, of the Basel Convention of 22 March 1989 on the control of transboundary movements of hazardous wastes and their disposal ⁽⁷⁾, to which the Community has been a Party since 1994. By adopting Regulation (EEC) No 259/93, the Council has established rules to curtail and to control such movements designed, *inter alia*, to make the existing Community system for the supervision and control of waste movements comply with the requirements of the Basel Convention.
- (4) Council Decision 97/640/EC ⁽⁸⁾ concerned the approval, on behalf of the Community, of the amendment to the Basel Convention, as laid down in Decision III/1 of the Conference of the Parties. By that amendment, all exports of hazardous waste destined for disposal from countries listed in Annex VII to the Convention to countries not listed therein were prohibited, as were, with effect from 1 January 1998, all such exports of the hazardous waste referred to in Article 1(1)(a) of the Convention and destined for recovery. Regulation (EEC) No 259/93 was amended accordingly by Council Regulation (EC) No 120/97 ⁽⁹⁾.
- (5) In view of the fact that the Community has approved Decision C(2001)107/Final of the OECD Council concerning the revision of Decision C(92)39/Final on the control of transboundary movements of wastes destined for recovery operations (OECD Decision), in order to harmonise waste lists with the Basel Convention and revise certain other requirements, it is necessary to incorporate the content of that Decision in Community legislation.

⁽¹⁾ OJ C 108, 30.4.2004, p. 58.

⁽²⁾ Opinion of the European Parliament of 19 November 2003 (OJ C 87 E, 7.4.2004, p. 281), Council Common Position of 24 June 2005 (OJ C 206 E, 23.8.2005, p. 1) and position of the European Parliament of 25 October 2005 (not yet published in the Official Journal). Council Decision of 29 May 2006.

⁽³⁾ OJ L 30, 6.2.1993, p. 1. Regulation as last amended by Commission Regulation (EC) No 2557/2001 (OJ L 349, 31.12.2001, p. 1).

⁽⁴⁾ OJ L 310, 3.12.1994, p. 70.

⁽⁵⁾ OJ L 156, 23.6.1999, p. 37.

⁽⁶⁾ OJ L 39, 16.2.1993, p. 1.

⁽⁷⁾ OJ L 39, 16.2.1993, p. 3.

⁽⁸⁾ OJ L 272, 4.10.1997, p. 45.

⁽⁹⁾ OJ L 22, 24.1.1997, p. 14.

(6) The Community has signed the Stockholm Convention of 22 May 2001 on persistent organic pollutants.

- (7) It is important to organise and regulate the supervision and control of shipments of waste in a way which takes account of the need to preserve, protect and improve the quality of the environment and human health and which promotes a more uniform application of the Regulation throughout the Community.
- (8) It is also important to bear in mind the requirement laid down in Article 4(2)(d) of the Basel Convention that shipments of hazardous waste are to be reduced to a minimum, consistent with environmentally sound and efficient management of such waste.
- (9) Furthermore, it is important to bear in mind the right of each Party to the Basel Convention, pursuant to Article 4(1) thereof, to prohibit the import of hazardous waste or of waste listed in Annex II to that Convention.
- (10) Shipments of waste generated by armed forces or relief organisations should be excluded from the scope of this Regulation when imported into the Community in certain situations (including transit within the Community when the waste enters the Community). The requirements of international law and international agreements should be respected in relation to such shipments. In such cases, any competent authority of transit and the competent authority of destination in the Community should be informed in advance concerning the shipment and its destination.
- (11) It is necessary to avoid duplication with Regulation (EC) No 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption ⁽¹⁾, which already contains provisions covering the overall consignment, channelling and movement (collection, transport, handling, processing, use, recovery or disposal, record keeping, accompanying documents and traceability) of animal by-products within, into and out of the Community.
- (12) The Commission should report by the date of entry into force of this Regulation on the relationship between the existing sectoral legislation on animal and public health and the provisions of this Regulation, and should submit by that date any proposals needed to bring such legislation into line with this Regulation in order to achieve an equivalent level of control.
- (13) Although the supervision and control of shipments of waste within a Member State is a matter for that Member State, national systems concerning shipments of waste should take account of the need for coherence with the Community system in order to ensure a high level of protection of the environment and human health.
- (14) In the case of shipments of waste destined for disposal operations and waste not listed in Annex III, IIIA or IIIB destined for recovery operations, it is appropriate to ensure optimum supervision and control by requiring prior written consent to such shipments. Such a procedure should in turn entail prior notification, which enables the competent authorities to be duly informed so that they can take all necessary measures for the protection of human health and the environment. It should also enable those authorities to raise reasoned objections to such a shipment.
- (15) In the case of shipments of waste listed in Annex III, IIIA or IIIB destined for recovery operations, it is appropriate to ensure a minimum level of supervision and control by requiring such shipments to be accompanied by certain information.
- (16) In view of the need for uniform application of this Regulation and for the proper functioning of the internal market, it is necessary in the interests of efficiency to require that notifications be processed through the competent authority of dispatch.
- (17) It is also important to clarify the system of financial guarantees or equivalent insurance.
- (18) Considering the responsibility of waste producers for the environmentally sound management of waste, the notification and movement documents for waste shipments should, where practicable, be filled in by the waste producers.
- (19) It is necessary to provide procedural safeguards for the notifier, both in the interests of legal certainty and to ensure uniform application of this Regulation and the proper functioning of the internal market.
- (20) In the case of shipments of waste for disposal, Member States should take into account the principles of proximity, priority for recovery and self-sufficiency at Community and national levels, in accordance with Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 on waste ⁽²⁾, by taking measures in accordance with the Treaty to prohibit generally or partially or to object systematically to such shipments. Account should also be taken of the requirement laid down in Directive 2006/12/EC, whereby Member States are to establish an integrated and adequate network of waste disposal installations, in order to enable the Community as a whole to become self-sufficient in waste disposal and the Member States to move towards that aim individually, taking into account geographical circumstances or the need for specialised installations for certain types of waste. Member States should also be able to ensure that the waste management facilities covered by Council Directive 96/61/EC of

⁽¹⁾ OJ L 273, 10.10.2002, p. 1. Regulation as last amended by Commission Regulation (EC) No 416/2005 (OJ L 66, 12.3.2005, p. 10).

⁽²⁾ OJ L 114, 27.4.2006, p. 9.

24 September 1996 concerning integrated pollution prevention and control ⁽¹⁾ apply best available techniques as defined in that Directive in compliance with the permit of the facility, and that the waste is treated in accordance with legally binding environmental protection standards in relation to disposal operations established in Community legislation.

- (21) In the case of shipments of waste destined for recovery, Member States should be able to ensure that the waste management facilities covered by Directive 96/61/EC apply best available techniques as defined in that Directive in compliance with the permit of the facility. Member States should also be able to ensure that waste is treated in accordance with legally binding environmental protection standards in relation to recovery operations established in Community legislation and that, taking account of Article 7 (4) of Directive 2006/12/EC, waste is treated in accordance with waste management plans established pursuant to that Directive with the purpose of ensuring the implementation of legally binding recovery or recycling obligations established in Community legislation.
- (22) The development of mandatory requirements for waste facilities and the treatment of specific waste materials at Community level, in addition to the existing provisions of Community law, can contribute to the creation of a high level of environmental protection across the Community, assist in the creation of a level playing field for recycling and help to ensure that the development of an economically viable internal market for recycling is not hindered. Therefore there is a need to develop a Community level playing field for recycling through the application of common standards in certain areas, as appropriate and including in relation to secondary materials, in order to increase the quality of recycling. The Commission should submit, as appropriate, proposals for such standards for certain wastes and certain recycling facilities as soon as practicable based on further examination in the context of the waste strategy and taking into account existing Community legislation and legislation in the Member States. In the interim, it should be possible, under certain conditions, to object to planned shipments where the related recovery would not be in accordance with national legislation in the country of dispatch relating to the recovery of waste. In the interim, the Commission should also keep under review the situation regarding possible undesired shipments of waste to the new Member States and, if necessary, submit appropriate proposals to deal with such situations.
- (23) Member States should be required to ensure that, in accordance with the United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters of 25 June 1998 (Aarhus

Convention), the relevant competent authorities make publicly available by appropriate means information on notifications of shipments, where such information is not confidential under national or Community legislation.

- (24) An obligation should be laid down to the effect that waste from a shipment that cannot be completed as intended is to be taken back to the country of dispatch or recovered or disposed of in an alternative way.
- (25) It should also be made compulsory for the person whose action is the cause of an illegal shipment to take back the waste involved or make alternative arrangements for its recovery or disposal. Failing that, the competent authorities of dispatch or destination, as appropriate, should intervene themselves.
- (26) It is necessary, in order to protect the environment of the countries concerned, to clarify the scope of the prohibition laid down in accordance with the Basel Convention of exports from the Community of any waste destined for disposal in a third country other than an EFTA (European Free Trade Association) country.
- (27) Countries that are Parties to the Agreement on the European Economic Area may adopt the control procedures provided for shipments within the Community.
- (28) It is also necessary, in order to protect the environment of the countries concerned, to clarify the scope of the prohibition of exports of hazardous waste destined for recovery in a country to which the OECD Decision does not apply, also laid down in accordance with the Basel Convention. In particular, it is necessary to clarify the list of waste to which that prohibition applies and to ensure that it also includes the waste listed in Annex II to the Basel Convention, namely waste collected from households and residues from the incineration of household waste.
- (29) Specific arrangements should be maintained for exports of non-hazardous waste destined for recovery in countries to which the OECD Decision does not apply and provision should be made for them to be further streamlined at a later date.
- (30) Imports into the Community of waste for disposal should be permitted where the exporting country is a Party to the Basel Convention. Imports into the Community of waste for recovery should be permitted where the exporting country is one to which the OECD Decision applies or is a Party to the Basel Convention. In other cases, however, imports should be allowed only if the exporting country is bound by a bilateral or multilateral agreement or arrangement compatible with Community legislation and in accordance with Article 11 of the Basel Convention, except

⁽¹⁾ OJ L 257, 10.10.1996, p. 26. Directive as last amended by Regulation (EC) No 166/2006 of the European Parliament and of the Council (OJ L 33, 4.2.2006, p. 1).

when this is not possible during situations of crisis, peacemaking, peacekeeping or war.

third countries should be promoted with a view to ensuring sound management of waste.

- (31) This Regulation should be applied in accordance with international maritime law.
- (32) This Regulation should reflect the rules regarding exports and imports of waste to and from the overseas countries and territories laid down in Council Decision 2001/822/EC of 27 November 2001 on the association of the overseas countries and territories with the European Community (Overseas Association Decision) ⁽¹⁾.
- (33) The necessary steps should be taken to ensure that, in accordance with Directive 2006/12/EC and other Community legislation on waste, waste shipped within the Community and waste imported into the Community is managed, throughout the period of shipment and including recovery or disposal in the country of destination, without endangering human health and without using processes or methods which could harm the environment. As regards exports from the Community that are not prohibited, efforts should be made to ensure that the waste is managed in an environmentally sound manner throughout the period of shipment and including recovery or disposal in the third country of destination. The facility which receives the waste should be operated in accordance with human health and environmental protection standards that are broadly equivalent to those established in Community legislation. A list of non-binding guidelines should be established in which guidance may be sought on environmentally sound management.
- (34) Member States should provide the Commission with information concerning the implementation of this Regulation, both through the reports submitted to the Secretariat of the Basel Convention and on the basis of a separate questionnaire.
- (35) It is necessary to ensure the safe and environmentally sound management of ship dismantling in order to protect human health and the environment. Furthermore, it should be noted that a ship may become waste as defined in Article 2 of the Basel Convention and that at the same time it may be defined as a ship under other international rules. It is important to recall that work is ongoing, involving inter-agency cooperation between International Labour Organisation (ILO), International Maritime Organisation (IMO) and the Secretariat of the Basel Convention, to establish mandatory requirements at the global level ensuring an efficient and effective solution to the problem of ship dismantling.
- (36) Efficient international cooperation regarding control of shipments of waste is instrumental in ensuring that shipments of hazardous waste are controlled. Information exchange, shared responsibility and cooperative efforts between the Community and its Member States and
- (37) Certain Annexes to this Regulation should be adopted by the Commission in accordance with the procedure referred to in Article 18(3) of Directive 2006/12/EC. This procedure should also apply to the amendment of the Annexes to take account of scientific and technical progress, of modifications in the relevant Community legislation or of events connected to the OECD Decision or to the Basel Convention and other related international conventions and agreements.
- (38) In preparing the instructions for completing the notification and movement documents to be set out in Annex IC, the Commission, taking into account the OECD Decision and the Basel Convention, should specify, *inter alia*, that the notification and movement documents should, as far as possible, be on two pages and what the precise timing is for completion of the notification and movement documents in Annex IA and IB, taking into account Annex II. In addition, where terminology and requirements differ between the OECD Decision or the Basel Convention and this Regulation, the specific requirements should be clarified.
- (39) In considering the mixtures of wastes to be added in Annex IIIA, the following information should be considered, *inter alia*: the properties of the waste, such as its possible hazardous characteristics, its potential for contamination and its physical state; the management aspects, such as the technological capacity to recover the waste, and the environmental benefits arising from the recovery operation, including whether the environmentally sound management of the waste may be impaired. The Commission should progress towards the completion of this Annex as far as possible before the date of entry into force of this Regulation and complete this task at the latest six months after that date.
- (40) Additional measures related to the implementation of this Regulation should also be adopted by the Commission in accordance with the procedure referred to in Article 18(3) of Directive 2006/12/EC. These measures should include a method for calculating the financial guarantee or equivalent insurance to be completed by the Commission, if possible, before the date of application of this Regulation.
- (41) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽²⁾.
- (42) Since the objective of this Regulation, namely to ensure protection of the environment when waste is subject to shipment, cannot be sufficiently achieved by the Member

⁽¹⁾ OJ L 314, 30.11.2001, p. 1.

⁽²⁾ OJ L 184, 17.7.1999, p. 23.

States and can therefore, by reason of the scale and effects thereof, be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

- (e) shipments of the waste referred to in point 1(b)(ii), (iv) and (v) of Article 2 of Directive 2006/12/EC, where such shipments are already covered by other Community legislation containing similar provisions;
- (f) shipments of waste from the Antarctic into the Community which are in accordance with the requirements of the Protocol on Environmental Protection to the Antarctic Treaty (1991);
- (g) imports into the Community of waste generated by armed forces or relief organisations in situations of crisis, peacemaking or peacekeeping operations where such waste is shipped, by the armed forces or relief organisations concerned or on their behalf, directly or indirectly to the country of destination. In such cases, any competent authority of transit and the competent authority of destination in the Community shall be informed in advance concerning the shipment and its destination.

HAVE ADOPTED THIS REGULATION:

TITLE I

SCOPE AND DEFINITIONS

Article 1

Scope

1. This Regulation establishes procedures and control regimes for the shipment of waste, depending on the origin, destination and route of the shipment, the type of waste shipped and the type of treatment to be applied to the waste at its destination.

2. This Regulation shall apply to shipments of waste:

- (a) between Member States, within the Community or with transit through third countries;
- (b) imported into the Community from third countries;
- (c) exported from the Community to third countries;
- (d) in transit through the Community, on the way from and to third countries.

3. The following shall be excluded from the scope of this Regulation:

- (a) the offloading to shore of waste, including waste water and residues, generated by the normal operation of ships and offshore platforms, provided that such waste is subject to the requirements of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (Marpol 73/78), or other binding international instruments;
- (b) waste generated on board vehicles, trains, aeroplanes and ships, until such waste is offloaded in order to be recovered or disposed of;
- (c) shipments of radioactive waste as defined in Article 2 of Council Directive 92/3/Euratom of 3 February 1992 on the supervision and control of shipments of radioactive waste between Member States and into and out of the Community ⁽¹⁾;
- (d) shipments which are subject to the approval requirements of Regulation (EC) No 1774/2002;

4. Shipments of waste from the Antarctic to countries outside the Community, which transit through the Community, shall be subject to Articles 36 and 49.

5. Shipments of waste exclusively within a Member State shall be subject only to Article 33.

Article 2

Definitions

For the purposes of this Regulation:

- 1. 'waste' is as defined in Article 1(1)(a) of Directive 2006/12/EC;
- 2. 'hazardous waste' is as defined in Article 1(4) of Council Directive 91/689/EEC of 12 December 1991 on hazardous waste ⁽²⁾;
- 3. 'mixture of wastes' means waste that results from an intentional or unintentional mixing of two or more different wastes and for which mixture no single entry exists in Annexes III, IIIB, IV and IVA. Waste shipped in a single shipment of wastes, consisting of two or more wastes, where each waste is separated, is not a mixture of wastes;
- 4. 'disposal' is as defined in Article 1(1)(e) of Directive 2006/12/EC;
- 5. 'interim disposal' means disposal operations D 13 to D 15 as defined in Annex II A to Directive 2006/12/EC;
- 6. 'recovery' is as defined in Article 1(1)(f) of Directive 2006/12/EC;

⁽¹⁾ OJ L 35, 12.2.1992, p. 24.

⁽²⁾ OJ L 377, 31.12.1991, p. 20. Directive as amended by Directive 94/31/EC (OJ L 168, 2.7.1994, p. 28).

7. 'interim recovery' means recovery operations R 12 and R 13 as defined in Annex II B to Directive 2006/12/EC;
8. 'environmentally sound management' means taking all practicable steps to ensure that waste is managed in a manner that will protect human health and the environment against adverse effects which may result from such waste;
9. 'producer' is anyone whose activities produce waste (original producer) and/or anyone who carries out pre-processing, mixing or other operations resulting in a change in the nature or composition of this waste (new producer) (as defined in Article 1(1)(b) of Directive 2006/12/EC);
10. 'holder' is the producer of the waste or the natural or legal person who is in possession of it (and as defined in Article 1(1)(c) of Directive 2006/12/EC);
11. 'collector' is anyone carrying out waste collection as defined in Article 1(1)(g) of Directive 2006/12/EC;
12. 'dealer' is anyone who acts in the role of principal to purchase and subsequently sell waste, including such dealers who do not take physical possession of the waste, and as referred to in Article 12 of Directive 2006/12/EC;
13. 'broker' is anyone arranging the recovery or disposal of waste on behalf of others, including such brokers who do not take physical possession of the waste, as referred to in Article 12 of Directive 2006/12/EC;
14. 'consignee' means the person or undertaking under the jurisdiction of the country of destination to whom or to which the waste is shipped for recovery or disposal;
15. 'notifier' means:
- (a) in the case of a shipment originating from a Member State, any natural or legal person under the jurisdiction of that Member State who intends to carry out a shipment of waste or intends to have a shipment of waste carried out and to whom the duty to notify is assigned. The notifier is one of the persons or bodies listed below, selected in accordance with the ranking established in this listing:
 - (i) the original producer, or
 - (ii) the licensed new producer who carries out operations prior to shipment, or
 - (iii) a licensed collector who, from various small quantities of the same type of waste collected from a variety of sources, has assembled the shipment which is to start from a single notified location, or
 - (iv) a registered dealer who has been authorised in writing by the original producer, new producer or licensed collector specified in (i), (ii) and (iii) to act on his/her behalf as notifier,
 - (v) a registered broker who has been authorised in writing by the original producer, new producer or licensed collector specified in (i), (ii) and (iii) to act on his/her behalf as notifier,
 - (vi) where all of the persons specified in (i), (ii), (iii), (iv) and (v) if applicable, are unknown or insolvent, the holder.

Should a notifier specified in (iv) or (v) fail to fulfil any of the take-back obligations set out in Articles 22 to 25, the original producer, new producer or licensed collector specified in (i), (ii) or (iii) respectively who authorised that dealer or broker to act on his/her behalf shall be deemed to be the notifier for the purposes of the said take-back obligations. In circumstances of illegal shipment notified by a dealer or broker specified in (iv) or (v), the person specified in (i), (ii) or (iii) who authorised that dealer or broker to act on his/her behalf shall be deemed to be the notifier for the purposes of this Regulation;
- (b) in the case of import into, or transit through, the Community of waste that does not originate in a Member State, any of the following natural or legal persons under the jurisdiction of the country of destination who intends to carry out a shipment of waste or intends to have, or who has had, a shipment of waste carried out, being either:
- (i) the person designated by the law of the country of destination; or, in the absence of any such designation,
 - (ii) the holder at the time the export took place;
16. 'Basel Convention' means the Basel Convention of 22 March 1989 on the control of transboundary movements of hazardous wastes and their disposal;
17. 'OECD Decision' means Decision C(2001)107/Final of the OECD Council concerning the revision of Decision C(92)39/Final on control of transboundary movements of wastes destined for recovery operations;
18. 'competent authority' means:
- (a) in the case of Member States, the body designated by the Member State concerned in accordance with Article 53; or
 - (b) in the case of a non-Member State that is a Party to the Basel Convention, the body designated by that country as the competent authority for the purposes of that Convention in accordance with Article 5 thereof; or

- (c) in the case of any country not referred to in either (a) or (b), the body that has been designated as the competent authority by the country or region concerned or, in the absence of such designation, the regulatory authority for the country or region, as appropriate, which has jurisdiction over shipments of waste for recovery or disposal or transit, as the case may be;
19. 'competent authority of dispatch' means the competent authority for the area from which the shipment is planned to be initiated or is initiated;
20. 'competent authority of destination' means the competent authority for the area to which the shipment is planned or takes place, or in which waste is loaded prior to recovery or disposal in an area not under the national jurisdiction of any country;
21. 'competent authority of transit' means the competent authority for any country, other than that of the competent authority of dispatch or destination, through which the shipment is planned or takes place;
22. 'country of dispatch' means any country from which a shipment of waste is planned to be initiated or is initiated;
23. 'country of destination' means any country to which a shipment of waste is planned or takes place for recovery or disposal therein, or for the purpose of loading prior to recovery or disposal in an area not under the national jurisdiction of any country;
24. 'country of transit' means any country, other than the country of dispatch or destination, through which a shipment of waste is planned or takes place;
25. 'area under the national jurisdiction of a country' means any land or marine area within which a state exercises administrative and regulatory responsibility in accordance with international law as regards the protection of human health or the environment;
26. 'overseas countries and territories' means the overseas countries and territories as listed in Annex IA to Decision 2001/822/EC;
27. 'customs office of export from the Community' is the customs office as defined in Article 161(5) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽¹⁾;
28. 'customs office of exit from the Community' is the customs office as defined in Article 793(2) of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽²⁾;
29. 'customs office of entry into the Community' is the customs office where waste brought into the customs territory of the Community shall be conveyed to in accordance with Article 38(1) of Regulation (EEC) No 2913/92;
30. 'import' means any entry of waste into the Community but excluding transit through the Community;
31. 'export' means the action of waste leaving the Community but excluding transit through the Community;
32. 'transit' means a shipment of waste or a planned shipment of waste through one or more countries other than the country of dispatch or destination;
33. 'transport' means the carriage of waste by road, rail, air, sea or inland waterways;
34. 'shipment' means the transport of waste destined for recovery or disposal which is planned or takes place:
- (a) between a country and another country; or
 - (b) between a country and overseas countries and territories or other areas, under that country's protection; or
 - (c) between a country and any land area which is not part of any country under international law; or
 - (d) between a country and the Antarctic; or
 - (e) from one country through any of the areas referred to above; or
 - (f) within a country through any of the areas referred to above and which originates in and ends in the same country; or
 - (g) from a geographic area not under the jurisdiction of any country, to a country;
35. 'illegal shipment' means any shipment of waste effected:
- (a) without notification to all competent authorities concerned pursuant to this Regulation; or
 - (b) without the consent of the competent authorities concerned pursuant to this Regulation; or

⁽¹⁾ OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 648/2005 of the European Parliament and of the Council (OJ L 117, 4.5.2005, p. 13).

⁽²⁾ OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 215/2006 (OJ L 38, 9.2.2006, p. 11).

- (c) with consent obtained from the competent authorities concerned through falsification, misrepresentation or fraud; or
- (d) in a way which is not specified materially in the notification or movement documents; or
- (e) in a way which results in recovery or disposal in contravention of Community or international rules; or
- (f) contrary to Articles 34, 36, 39, 40, 41 and 43; or
- (g) which, in relation to shipments of waste as referred to in Article 3(2) and (4), has resulted from:
 - (i) the waste being discovered not to be listed in Annexes III, IIIA or IIIB, or
 - (ii) non-compliance with Article 3(4),
 - (iii) the shipment being effected in a way which is not specified materially in the document set out in Annex VII.

TITLE II

SHIPMENTS WITHIN THE COMMUNITY WITH OR WITHOUT TRANSIT THROUGH THIRD COUNTRIES

Article 3

Overall procedural framework

1. Shipments of the following wastes shall be subject to the procedure of prior written notification and consent as laid down in the provisions of this Title:

- (a) if destined for disposal operations:
 - all wastes;
- (b) if destined for recovery operations:
 - (i) wastes listed in Annex IV, which include, *inter alia*, wastes listed in Annexes II and VIII to the Basel Convention,
 - (ii) wastes listed in Annex IVA,
 - (iii) wastes not classified under one single entry in either Annex III, IIIB, IV or IVA,
 - (iv) mixtures of wastes not classified under one single entry in either Annex III, IIIB, IV or IVA unless listed in Annex IIIA.

2. Shipments of the following wastes destined for recovery shall be subject to the general information requirements laid down in Article 18, if the amount of waste shipped exceeds 20 kg:

- (a) waste listed in Annex III or IIIB;

- (b) mixtures, not classified under one single entry in Annex III, of two or more wastes listed in Annex III, provided that the composition of these mixtures does not impair their environmentally sound recovery and provided that such mixtures are listed in Annex IIIA, in accordance with Article 58.

3. For wastes listed in Annex III, in exceptional cases, the relevant provisions shall apply as if they had been listed in Annex IV, if they display any of the hazardous characteristics listed in Annex III to Directive 91/689/EEC. These cases shall be treated in accordance with Article 58.

4. Shipments of waste explicitly destined for laboratory analysis to assess either its physical or chemical characteristics or to determine its suitability for recovery or disposal operations shall not be subject to the procedure of prior written notification and consent as described in paragraph 1. Instead, the procedural requirements of Article 18 shall apply. The amount of such waste exempted when explicitly destined for laboratory analysis shall be determined by the minimum quantity reasonably needed to adequately perform the analysis in each particular case, and shall not exceed 25 kg.

5. Shipments of mixed municipal waste (waste entry 20 03 01) collected from private households, including where such collection also covers such waste from other producers, to recovery or disposal facilities shall, in accordance with this Regulation, be subject to the same provisions as shipments of waste destined for disposal.

CHAPTER 1

Prior written notification and consent

Article 4

Notification

Where the notifier intends to ship waste as referred to in Article 3(1)(a) or (b), he/she shall submit a prior written notification to and through the competent authority of dispatch and, if submitting a general notification, comply with Article 13.

When a notification is submitted, the following requirements shall be fulfilled:

- 1. notification and movement documents:

Notification shall be effected by means of the following documents:

- (a) the notification document set out in Annex IA; and
- (b) the movement document set out in Annex IB.

In submitting a notification, the notifier shall fill in the notification document and, where relevant, the movement document.

When the notifier is not the original producer in accordance with point 15(a)(i) of Article 2, the notifier shall ensure that this producer or one of the persons indicated in point 15(a)(ii) or (iii) of Article 2, where practicable, also signs the notification document set out in Annex IA.

The notification document and the movement document shall be issued to the notifier by the competent authority of dispatch;

2. information and documentation in the notification and movement documents:

The notifier shall supply on, or annex to, the notification document information and documentation as listed in Annex II, Part 1. The notifier shall supply on, or annex to, the movement document information and documentation referred to in Annex II, Part 2, to the extent possible at the time of notification.

A notification shall be considered properly carried out when the competent authority of dispatch is satisfied that the notification document and movement document have been completed in accordance with the first subparagraph;

3. additional information and documentation:

If requested by any of the competent authorities concerned, the notifier shall supply additional information and documentation. A list of additional information and documentation that may be requested is set out in Annex II, Part 3.

A notification shall be considered properly completed when the competent authority of destination is satisfied that the notification document and the movement document have been completed and that the information and documentation as listed in Annex II, Parts 1 and 2, as well as any additional information and documentation requested in accordance with this paragraph and as listed in Annex II, Part 3, have been supplied by the notifier;

4. conclusion of a contract between the notifier and the consignee:

The notifier shall conclude a contract as described in Article 5 with the consignee for the recovery or disposal of the notified waste.

Evidence of this contract or a declaration certifying its existence in accordance with Annex IA shall be supplied to the competent authorities involved at the time of notification. A copy of the contract or such evidence to the satisfaction of the competent authority concerned shall be provided by the notifier or consignee upon request by the competent authority;

5. establishment of a financial guarantee or equivalent insurance:

A financial guarantee or equivalent insurance shall be established as described in Article 6. A declaration to this effect shall be made by the notifier through completion of the appropriate part of the notification document set out in Annex IA.

The financial guarantee or equivalent insurance (or if the competent authority so allows, evidence of that guarantee or insurance or a declaration certifying its existence) shall be supplied as part of the notification document at the time of notification or, if the competent authority so allows, pursuant to national legislation, at such time before the shipment starts;

6. Coverage of the notification:

A notification shall cover the shipment of waste from its initial place of dispatch and including its interim and non-interim recovery or disposal.

If subsequent interim or non-interim operations take place in a country other than the first country of destination, the non-interim operation and its destination shall be indicated in the notification and Article 15(f) shall apply.

Only one waste identification code shall be covered for each notification, except for:

- (a) wastes not classified under one single entry in either Annex III, IIIB, IV or IVA. In this case, only one type of waste shall be specified;
- (b) mixtures of wastes not classified under one single entry in either Annex III, IIIB, IV or IVA unless listed in Annex IIIA. In this case, the code for each fraction of the waste shall be specified in order of importance.

Article 5

Contract

1. All shipments of waste for which notification is required shall be subject to the requirement of the conclusion of a contract between the notifier and the consignee for the recovery or disposal of the notified waste.

2. The contract shall be concluded and effective at the time of notification and for the duration of the shipment until a certificate is issued in accordance with Article 15(e), Article 16(e) or, where appropriate, Article 15(d).

3. The contract shall include obligations:

- (a) on the notifier to take the waste back if the shipment or the recovery or disposal has not been completed as intended or if it has been effected as an illegal shipment, in accordance with Article 22 and Article 24(2);

(b) on the consignee to recover or dispose of the waste if it has been effected as an illegal shipment, in accordance with Article 24(3); and

(c) on the facility to provide, in accordance with Article 16(e), a certificate that the waste has been recovered or disposed of, in accordance with the notification and the conditions specified therein and the requirements of this Regulation.

4. If the waste shipped is destined for interim recovery or disposal operations, the contract shall include the following additional obligations:

(a) the obligation on the facility of destination to provide, in accordance with Article 15(d) and, where appropriate, Article 15(e), the certificates that the waste has been recovered or disposed of in accordance with the notification and the conditions specified therein and the requirements of this Regulation; and

(b) the obligation on the consignee to submit, where applicable, a notification to the initial competent authority of the initial country of dispatch in accordance with Article 15(f)(ii).

5. If the waste is shipped between two establishments under the control of the same legal entity, the contract may be replaced by a declaration by the entity in question undertaking to recover or dispose of the notified waste.

Article 6

Financial guarantee

1. All shipments of waste for which notification is required shall be subject to the requirement of a financial guarantee or equivalent insurance covering:

(a) costs of transport;

(b) costs of recovery or disposal, including any necessary interim operation; and

(c) costs of storage for 90 days.

2. The financial guarantee or equivalent insurance is intended to cover costs arising in the context of:

(a) cases where a shipment or the recovery or disposal cannot be completed as intended, as referred to in Article 22; and

(b) cases where a shipment or the recovery or disposal is illegal as referred to in Article 24.

3. The financial guarantee or equivalent insurance shall be established by the notifier or by another natural or legal person on its behalf and shall be effective at the time of the notification or, if the competent authority which approves the financial guarantee or equivalent insurance so allows, at the latest when

the shipment starts, and shall apply to the notified shipment at the latest when the shipment starts.

4. The competent authority of dispatch shall approve the financial guarantee or equivalent insurance, including the form, wording and amount of the cover.

However, in cases of import into the Community, the competent authority of destination in the Community shall review the amount of cover and, if necessary, approve an additional financial guarantee or equivalent insurance.

5. The financial guarantee or equivalent insurance shall be valid for and cover a notified shipment and completion of recovery or disposal of the notified waste.

The financial guarantee or equivalent insurance shall be released when the competent authority concerned has received the certificate referred to in Article 16(e) or, where appropriate, in Article 15(e) as regards interim recovery or disposal operations.

6. By way of derogation from paragraph 5, if the waste shipped is destined for interim recovery or disposal operations and a further recovery or disposal operation takes place in the country of destination, the financial guarantee or equivalent insurance may be released when the waste leaves the interim facility and the competent authority concerned has received the certificate referred to in Article 15(d). In this case, any further shipment to a recovery or disposal facility shall be covered by a new financial guarantee or equivalent insurance unless the competent authority of destination is satisfied that such a financial guarantee or equivalent insurance is not required. In these circumstances, the competent authority of destination shall be responsible for obligations arising in the case of an illegal shipment or for take-back where the shipment or the further recovery or disposal operation cannot be completed as intended.

7. The competent authority within the Community which has approved the financial guarantee or equivalent insurance shall have access thereto and shall make use of the funding, including for the purpose of payments to other authorities concerned, in order to meet the obligations arising in accordance with Articles 23 and 25.

8. In the case of a general notification pursuant to Article 13, a financial guarantee or equivalent insurance covering parts of the general notification may be established, instead of one covering the entire general notification. In such cases, the financial guarantee or equivalent insurance shall apply to the shipment at the latest when the notified shipment it covers starts.

The financial guarantee or equivalent insurance shall be released when the competent authority concerned has received the certificate referred to in Article 16(e) or, where appropriate, in Article 15(e) as regards interim recovery or disposal operations for the relevant waste. Paragraph 6 shall apply *mutatis mutandis*.

9. Member States shall inform the Commission of provisions of national law adopted pursuant to this Article.

Article 7

Transmission of the notification by the competent authority of dispatch

1. Once the notification has been properly carried out, as described in the second subparagraph, point 2 of Article 4, the competent authority of dispatch shall retain a copy of the notification and transmit the notification to the competent authority of destination with copies to any competent authority (ies) of transit, and shall inform the notifier of the transmission. This shall be done within three working days of receipt of the notification.

2. If the notification is not properly carried out, the competent authority of dispatch shall request information and documentation from the notifier in accordance with the second subparagraph, point 2 of Article 4.

This shall be done within three working days of receipt of the notification.

In such cases the competent authority of dispatch shall have three working days following the receipt of the information and/or documentation requested in which to comply with paragraph 1.

3. Once the notification has been properly carried out, as described in the second subparagraph, point 2 of Article 4, the competent authority of dispatch may decide, within three working days, not to proceed with the notification, if it has objections to the shipment in accordance with Articles 11 and 12.

It shall immediately inform the notifier of its decision and of these objections.

4. If, within 30 days of receipt of the notification, the competent authority of dispatch has not transmitted the notification as required under paragraph 1, it shall provide the notifier with a reasoned explanation upon his/her request. This shall not apply when the request for information, referred to in paragraph 2, has not been complied with.

Article 8

Requests for information and documentation by the competent authorities concerned and acknowledgement by the competent authority of destination

1. Following the transmission of the notification by the competent authority of dispatch, if any of the competent authorities concerned considers that additional information and documentation is required as referred to in the second subparagraph, point 3 of Article 4, it shall request such information and documentation from the notifier and inform the other competent authorities of such request. This shall be done within three working days of receipt of the notification. In such cases the competent authorities concerned shall have three working days following the receipt of the information and

documentation requested in which to inform the competent authority of destination.

2. When the competent authority of destination considers that the notification has been properly completed, as described in the second subparagraph, point 3 of Article 4, it shall send an acknowledgement to the notifier and copies to the other competent authorities concerned. This shall be done within three working days of receipt of the properly completed notification.

3. If, within 30 days of receipt of the notification, the competent authority of destination has not acknowledged the notification as required under paragraph 2, it shall provide the notifier, upon his/her request, with a reasoned explanation.

Article 9

Consents by the competent authorities of destination, dispatch and transit and time periods for transport, recovery or disposal

1. The competent authorities of destination, dispatch and transit shall have 30 days following the date of transmission of the acknowledgement by the competent authority of destination in accordance with Article 8 in which to take one of the following duly reasoned decisions in writing as regards the notified shipment:

- (a) consent without conditions;
- (b) consent with conditions in accordance with Article 10; or
- (c) objections in accordance with Articles 11 and 12.

Tacit consent by the competent authority of transit may be assumed if no objection is lodged within the said 30-day time limit.

2. The competent authorities of destination, dispatch and, where appropriate, transit shall transmit their decision and the reasons therefor to the notifier in writing within the 30-day time limit referred to in paragraph 1, with copies to the other competent authorities concerned.

3. The competent authorities of destination, dispatch and, where appropriate, transit shall signify their written consent by appropriately stamping, signing and dating the notification document or their copies thereof.

4. A written consent to a planned shipment shall expire one calendar year after it is issued or on such later date as is indicated in the notification document. However, this shall not apply if a shorter period is indicated by the competent authorities concerned.

5. Tacit consent to a planned shipment shall expire one calendar year after the expiry of the 30-day time limit referred to in paragraph 1.

6. The planned shipment may take place only after fulfilment of the requirements of Article 16(a) and (b) and during the period of validity of the tacit or written consents of all competent authorities.

7. The recovery or disposal of waste in relation to a planned shipment shall be completed no later than one calendar year from the receipt of the waste by the facility, unless a shorter period is indicated by the competent authorities concerned.

8. The competent authorities concerned shall withdraw their consent when they have knowledge that:

- (a) the composition of the waste is not as notified; or
- (b) the conditions imposed on the shipment are not respected; or
- (c) the waste is not recovered or disposed of in compliance with the permit of the facility that performs the said operation; or
- (d) the waste is to be, or has been, shipped, recovered or disposed of in a way that is not in accordance with the information supplied on, or annexed to, the notification and movement documents.

9. Any withdrawal of consent shall be transmitted by means of official notice to the notifier with copies to the other competent authorities concerned and to the consignee.

Article 10

Conditions for a shipment

1. The competent authorities of dispatch, destination and transit may, within 30 days following the date of transmission of the acknowledgement of the competent authority of destination in accordance with Article 8, lay down conditions in connection with their consent to a notified shipment. Such conditions may be based on one or more of the reasons specified in either Article 11 or Article 12.

2. The competent authorities of dispatch, destination and transit may also, within the 30-day time limit referred to in paragraph 1, lay down conditions in respect of the transport of waste within their jurisdiction. Such transport conditions shall not be more stringent than those laid down in respect of similar shipments occurring wholly within their jurisdiction and shall take due account of existing agreements, in particular relevant international agreements.

3. The competent authorities of dispatch, destination and transit may also, within the 30-day time limit referred to in paragraph 1, lay down a condition that their consent is to be considered withdrawn if the financial guarantee or equivalent insurance is not applicable at the latest when the notified shipment starts, as required by Article 6(3).

4. Conditions shall be transmitted to the notifier in writing by the competent authority that lays them down, with copies to the competent authorities concerned.

Conditions shall be supplied on, or annexed to, the notification document by the relevant competent authority.

5. The competent authority of destination may also, within the 30-day time limit referred to in paragraph 1, lay down a condition that the facility which receives the waste shall keep a regular record of inputs, outputs and/or balances for wastes and the related recovery or disposal operations as contained in the notification, and for the period of validity of the notification. Such records shall be signed by a person legally responsible for the facility and be sent to the competent authority of destination within one month of completion of the notified recovery or disposal operation.

Article 11

Objections to shipments of waste destined for disposal

1. Where a notification is submitted regarding a planned shipment of waste destined for disposal, the competent authorities of destination and dispatch may, within 30 days following the date of transmission of the acknowledgement of the competent authority of destination in accordance with Article 8, raise reasoned objections based on one or more of the following grounds and in accordance with the Treaty:

- (a) that the planned shipment or disposal would not be in accordance with measures taken to implement the principles of proximity, priority for recovery and self-sufficiency at Community and national levels in accordance with Directive 2006/12/EC, to prohibit generally or partially or to object systematically to shipments of waste; or
- (b) that the planned shipment or disposal would not be in accordance with national legislation relating to environmental protection, public order, public safety or health protection concerning actions taking place in the objecting country; or
- (c) that the notifier or the consignee has previously been convicted of illegal shipment or some other illegal act in relation to environmental protection. In this case, the competent authorities of dispatch and destination may refuse all shipments involving the person in question in accordance with national legislation; or
- (d) that the notifier or the facility has repeatedly failed to comply with Articles 15 and 16 in connection with past shipments; or
- (e) that the Member State wishes to exercise its right pursuant to Article 4(1) of the Basel Convention to prohibit the import of hazardous waste or of waste listed in Annex II to that Convention; or
- (f) that the planned shipment or disposal conflicts with obligations resulting from international conventions concluded by the Member State(s) concerned or the Community; or

- (g) that the planned shipment or disposal is not in accordance with Directive 2006/12/EC, in particular Articles 5 and 7 thereof, while taking into account geographical circumstances or the need for specialised installations for certain types of waste:
- (i) in order to implement the principle of self-sufficiency at Community and national levels, or
 - (ii) in cases where the specialised installation has to dispose of waste from a nearer source and the competent authority has given priority to this waste, or
 - (iii) in order to ensure that shipments are in accordance with waste management plans, or
- (h) that the waste will be treated in a facility which is covered by Directive 96/61/EC, but which does not apply best available techniques as defined in Article 9(4) of that Directive in compliance with the permit of the facility; or
- (i) that the waste is mixed municipal waste collected from private households (waste entry 20 03 01); or
 - (j) that the waste concerned will not be treated in accordance with legally binding environmental protection standards in relation to disposal operations established in Community legislation (also in cases where temporary derogations are granted).

2. The competent authority(ies) of transit may, within the 30-day time limit referred to in paragraph 1, raise reasoned objections based only on paragraph 1(b), (c), (d) and (f).

3. In the case of hazardous waste produced in a Member State of dispatch in such a small quantity overall per year that the provision of new specialised disposal installations within that Member State would be uneconomic, paragraph 1(a) shall not apply.

The competent authority of destination shall cooperate with the competent authority of dispatch which considers that this paragraph and not paragraph 1(a) should apply, with a view to resolving the issue bilaterally.

If there is no satisfactory solution, either Member State may refer the matter to the Commission. The Commission shall then determine the issue in accordance with the procedure referred to in Article 18(3) of Directive 2006/12/EC.

4. If, within the 30-day time limit referred to in paragraph 1, the competent authorities consider that the problems which gave rise to their objections have been resolved, they shall immediately inform the notifier in writing, with copies to the consignee and to the other competent authorities concerned.

5. If the problems giving rise to the objections have not been resolved within the 30-day time limit referred to in paragraph 1, the notification shall cease to be valid. In cases where the notifier still intends to carry out the shipment, a new notification shall be submitted, unless all the competent authorities concerned and the notifier agree otherwise.

6. Measures taken by Member States in accordance with paragraph 1(a), to prohibit generally or partially or to object systematically to shipments of waste destined for disposal, or in accordance with paragraph 1(e), shall immediately be notified to the Commission which shall inform the other Member States.

Article 12

Objections to shipments of waste destined for recovery

1. Where a notification is submitted regarding a planned shipment of waste destined for recovery, the competent authorities of destination and dispatch may, within 30 days following the date of transmission of the acknowledgement of the competent authority of destination in accordance with Article 8, raise reasoned objections based on one or more of the following grounds and in accordance with the Treaty:

- (a) that the planned shipment or recovery would not be in accordance with Directive 2006/12/EC, in particular Articles 3, 4, 7 and 10 thereof; or
- (b) that the planned shipment or recovery would not be in accordance with national legislation relating to environmental protection, public order, public safety or health protection concerning actions taking place in the objecting country; or
- (c) that the planned shipment or recovery would not be in accordance with national legislation in the country of dispatch relating to the recovery of waste, including where the planned shipment would concern waste destined for recovery in a facility which has lower treatment standards for the particular waste than those of the country of dispatch, respecting the need to ensure the proper functioning of the internal market;

This shall not apply if:

- (i) there is corresponding Community legislation, in particular related to waste, and if requirements that are at least as stringent as those laid down in the Community legislation have been introduced in national legislation transposing such Community legislation,
- (ii) the recovery operation in the country of destination takes place under conditions that are broadly equivalent to those prescribed in the national legislation of the country of dispatch,

- (iii) the national legislation in the country of dispatch, other than that covered by (i), has not been notified in accordance with Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services ⁽¹⁾, where required by that Directive, or
- (d) that the notifier or the consignee has previously been convicted of illegal shipment or some other illegal act in relation to environmental protection. In this case, the competent authorities of dispatch and destination may refuse all shipments involving the person in question in accordance with national legislation; or
- (e) that the notifier or the facility has repeatedly failed to comply with Articles 15 and 16 in connection with past shipments; or
- (f) that the planned shipment or recovery conflicts with obligations resulting from international conventions concluded by the Member State(s) concerned or the Community; or
- (g) that the ratio of the recoverable and non-recoverable waste, the estimated value of the materials to be finally recovered or the cost of the recovery and the cost of the disposal of the non-recoverable fraction do not justify the recovery, having regard to economic and/or environmental considerations; or
- (h) that the waste shipped is destined for disposal and not for recovery; or
- (i) that the waste will be treated in a facility which is covered by Directive 96/61/EC, but which does not apply best available techniques as defined in Article 9(4) of that Directive in compliance with the permit of the facility; or
- (j) that the waste concerned will not be treated in accordance with legally binding environmental protection standards in relation to recovery operations, or legally binding recovery or recycling obligations established in Community legislation (also in cases where temporary derogations are granted); or
- (k) that the waste concerned will not be treated in accordance with waste management plans drawn up pursuant to Article 7 of Directive 2006/12/EC with the purpose of ensuring the implementation of legally binding recovery or recycling obligations established in Community legislation.

2. The competent authority(ies) of transit may, within the 30-day time limit referred to in paragraph 1, raise reasoned objections to the planned shipment based only on paragraph 1 (b), (d), (e) and (f).

3. If, within the 30-day time limit referred to in paragraph 1, the competent authorities consider that the problems which gave rise to their objections have been resolved, they shall

immediately inform the notifier in writing, with copies to the consignee and to the other competent authorities concerned.

4. If the problems giving rise to the objections are not resolved within the 30-day time limit referred to in paragraph 1, the notification shall cease to be valid. In cases where the notifier still intends to carry out the shipment, a new notification shall be submitted, unless all the competent authorities concerned and the notifier agree otherwise.

5. Objections raised by competent authorities in accordance with paragraph 1(c) shall be reported by Member States to the Commission in accordance with Article 51.

6. The Member State of dispatch shall inform the Commission and the other Member States of the national legislation on which objections raised by competent authorities in accordance with paragraph 1(c) may be based, and shall state to which waste and waste recovery operations those objections apply, before such legislation is invoked in order to raise reasoned objections.

Article 13

General notification

1. The notifier may submit a general notification to cover several shipments if, in the case of each shipment:

- (a) the waste has essentially similar physical and chemical characteristics; and
- (b) the waste is shipped to the same consignee and the same facility; and
- (c) the route of the shipment as indicated in the notification document is the same.

2. If, owing to unforeseen circumstances, the same route cannot be followed, the notifier shall inform the competent authorities concerned as soon as possible and, if possible, before the shipment starts if the need for modification is already known.

Where the route modification is known before the shipment starts and involves competent authorities other than those concerned by the general notification, the general notification may not be used and a new notification shall be submitted.

3. The competent authorities concerned may make their agreement to the use of a general notification subject to the subsequent provision of additional information and documentation, in accordance with the second subparagraph, points 2 and 3 of Article 4.

Article 14

Pre-consented recovery facilities

1. The competent authorities of destination which have jurisdiction over specific recovery facilities may decide to issue pre-consents to such facilities.

⁽¹⁾ OJ L 204, 21.7.1998, p. 37. Directive as last amended by the 2003 Act of Accession.

Such decisions shall be limited to a specific period and may be revoked at any time.

Article 15

2. In the case of a general notification submitted in accordance with Article 13, the period of validity of the consent referred to in Article 9(4) and (5) may be extended to up to three years by the competent authority of destination in agreement with the other competent authorities concerned.

3. Competent authorities which decide to issue a pre-consent to a facility in accordance with paragraphs 1 and 2 shall inform the Commission and, where appropriate, the OECD Secretariat of:

- (a) the name, registration number and address of the recovery facility;
- (b) the description of technologies employed, including R-code (s);
- (c) the wastes as listed in Annexes IV and IVA or the wastes to which the decision applies;
- (d) the total pre-consented quantity;
- (e) the period of validity;
- (f) any change in the pre-consent;
- (g) any change in the information notified; and
- (h) any revocation of the pre-consent.

For this purpose the form set out in Annex VI shall be used.

4. By way of derogation from Articles 9, 10 and 12, the consent given in accordance with Article 9, conditions imposed in accordance with Article 10 or objections raised in accordance with Article 12 by the competent authorities concerned shall be subject to a time limit of seven working days following the date of transmission of the acknowledgement of the competent authority of destination in accordance with Article 8.

5. Notwithstanding paragraph 4, the competent authority of dispatch may decide that more time is needed in order to receive further information or documentation from the notifier.

In such cases, the competent authority shall, within seven working days, inform the notifier in writing with copies to the other competent authorities concerned.

The total time needed shall not exceed 30 days following the date of transmission of the acknowledgement of the competent authority of destination in accordance with Article 8.

Additional provisions regarding interim recovery and disposal operations

Shipments of waste destined for interim recovery or disposal operations shall be subject to the following additional provisions:

- (a) Where a shipment of waste is destined for an interim recovery or disposal operation, all the facilities where subsequent interim as well as non-interim recovery and disposal operations are envisaged shall also be indicated in the notification document in addition to the initial interim recovery or disposal operation.
- (b) The competent authorities of dispatch and destination may give their consent to a shipment of waste destined for an interim recovery or disposal operation only if there are no grounds for objection, in accordance with Articles 11 or 12, to the shipment(s) of waste to the facilities performing any subsequent interim or non-interim recovery or disposal operations.
- (c) Within three days of the receipt of the waste by the facility which carries out this interim recovery or disposal operation, that facility shall provide confirmation in writing that the waste has been received.

This confirmation shall be supplied on, or annexed to, the movement document. The said facility shall send signed copies of the movement document containing this confirmation to the notifier and to the competent authorities concerned.

- (d) As soon as possible, but no later than 30 days after completion of the interim recovery or disposal operation, and no later than one calendar year, or a shorter period in accordance with Article 9(7), following the receipt of the waste, the facility carrying out this operation shall, under its responsibility, certify that the interim recovery or disposal has been completed.

This certificate shall be contained in, or annexed to, the movement document.

The said facility shall send signed copies of the movement document containing this certificate to the notifier and to the competent authorities concerned.

- (e) When a recovery or disposal facility which carries out an interim recovery or disposal operation delivers the waste for any subsequent interim or non-interim recovery or disposal operation to a facility located in the country of destination, it shall obtain as soon as possible but no later than one calendar year following delivery of the waste, or a shorter period in accordance with Article 9(7), a certificate from that facility that the subsequent non-interim recovery or disposal operation has been completed.

The said facility that carries out an interim recovery or disposal operation shall promptly transmit the relevant certificate(s) to the notifier and the competent authorities concerned, identifying the shipment(s) to which the certificate(s) pertain.

- (f) When a delivery as described in subparagraph (e) is made to a facility respectively located:
- (i) in the initial country of dispatch or in another Member State, a new notification shall be required in accordance with the provisions of this Title, or
 - (ii) in a third country, a new notification shall be required in accordance with the provisions of this Regulation, with the addition that the provisions concerning the competent authorities concerned shall also apply to the initial competent authority of the initial country of dispatch.

Article 16

Requirements following consent to a shipment

After consent has been given to a notified shipment by the competent authorities involved, all undertakings involved shall complete the movement document, or, in the case of a general notification, the movement documents at the points indicated, sign it or them and retain a copy or copies. The following requirements shall be fulfilled:

- (a) Completion of the movement document by the notifier: once the notifier has received consent from the competent authorities of dispatch, destination and transit or, in relation to the competent authority of transit, can assume tacit consent, he/she shall insert the actual date of shipment and otherwise complete the movement document to the extent possible.
- (b) Prior information regarding actual start of shipment: the notifier shall send signed copies of the then completed movement document, as described in point (a), to the competent authorities concerned and to the consignee at least three working days before the shipment starts.
- (c) Documents to accompany each transport: the notifier shall retain a copy of the movement document. The movement document and copies of the notification document containing the written consents and the conditions of the competent authorities concerned shall accompany each transport. The movement document shall be retained by the facility which receives the waste.
- (d) Written confirmation of receipt of the waste by the facility: within three days of receipt of the waste, the facility shall provide confirmation in writing that the waste has been received.

This confirmation shall be contained in, or annexed to, the movement document.

The facility shall send signed copies of the movement document containing this confirmation to the notifier and to the competent authorities concerned.

- (e) Certificate for non-interim recovery or disposal by the facility: as soon as possible, but no later than 30 days after completion of the non-interim recovery or disposal operation, and no later than one calendar year, or a shorter period in accordance with Article 9(7), following receipt of the waste, the facility carrying out the operation shall, under its responsibility, certify that the non-interim recovery or disposal has been completed.

This certificate shall be contained in, or annexed to, the movement document.

The facility shall send signed copies of the movement document containing this certificate to the notifier and to the competent authorities concerned.

Article 17

Changes in the shipment after consent

1. If any essential change is made to the details and/or conditions of the consented shipment, including changes in the intended quantity, route, routing, date of shipment or carrier, the notifier shall inform the competent authorities concerned and the consignee immediately and, where possible, before the shipment starts.
2. In such cases a new notification shall be submitted, unless all the competent authorities concerned consider that the proposed changes do not require a new notification.
3. Where such changes involve competent authorities other than those concerned in the original notification, a new notification shall be submitted.

CHAPTER 2

General information requirements

Article 18

Waste to be accompanied by certain information

1. Waste as referred to in Article 3(2) and (4) that is intended to be shipped shall be subject to the following procedural requirements:
 - (a) In order to assist the tracking of shipments of such waste, the person under the jurisdiction of the country of dispatch who arranges the shipment shall ensure that the waste is accompanied by the document contained in Annex VII.

- (b) The document contained in Annex VII shall be signed by the person who arranges the shipment before the shipment takes place and shall be signed by the recovery facility or the laboratory and the consignee when the waste in question is received.

2. The contract referred to in Annex VII between the person who arranges the shipment and the consignee for recovery of the waste shall be effective when the shipment starts and shall include an obligation, where the shipment of waste or its recovery cannot be completed as intended or where it has been effected as an illegal shipment, on the person who arranges the shipment or, where that person is not in a position to complete the shipment of waste or its recovery (for example, is insolvent), on the consignee, to:

- (a) take the waste back or ensure its recovery in an alternative way; and
- (b) provide, if necessary, for its storage in the meantime.

The person who arranges the shipment or the consignee shall provide a copy of the contract upon request by the competent authority concerned.

3. For inspection, enforcement, planning and statistical purposes, Member States may in accordance with national legislation require information as referred to in paragraph 1 on shipments covered by this Article.

4. The information referred to in paragraph 1 shall be treated as confidential where this is required by Community and national legislation.

CHAPTER 3

General requirements

Article 19

Prohibition on mixing waste during shipment

From the start of the shipment to the receipt in a recovery or disposal facility, waste, as specified on the notification document or as referred to in Article 18, shall not be mixed with other waste.

Article 20

Keeping of documents and information

1. All documents sent to or by the competent authorities in relation to a notified shipment shall be kept in the Community for at least three years from the date when the shipment starts, by the competent authorities, the notifier, the consignee and the facility which receives the waste.

2. Information given pursuant to Article 18(1) shall be kept in the Community for at least three years from the date when the shipment starts, by the person who arranges for the shipment, the consignee and the facility which receives the waste.

Article 21

Public access to notifications

The competent authorities of dispatch or destination may make publicly available by appropriate means, such as the Internet, information on notifications of shipments they have consented to, where such information is not confidential under national or Community legislation.

CHAPTER 4

Take-back obligations

Article 22

Take-back when a shipment cannot be completed as intended

1. Where any of the competent authorities concerned becomes aware that a shipment of waste, including its recovery or disposal, cannot be completed as intended in accordance with the terms of the notification and movement documents and/or contract referred to in the second subparagraph, point 4 of Article 4 and in Article 5, it shall immediately inform the competent authority of dispatch. Where a recovery or disposal facility rejects a shipment received, it shall immediately inform the competent authority of destination.

2. The competent authority of dispatch shall ensure that, except in cases referred to in paragraph 3, the waste in question is taken back to its area of jurisdiction or elsewhere within the country of dispatch by the notifier as identified in accordance with the ranking established in point 15 of Article 2, or, if impracticable, by that competent authority itself or by a natural or legal person on its behalf.

This shall take place within 90 days, or such other period as may be agreed between the competent authorities concerned, after the competent authority of dispatch becomes aware or has been advised in writing by the competent authorities of destination or transit that the consented shipment of waste or its recovery or disposal cannot be completed and has been informed of the reason(s) therefor. Such advice may result from information submitted to the competent authorities of destination or transit, *inter alia*, by other competent authorities.

3. The take-back obligation in paragraph 2 shall not apply if the competent authorities of dispatch, transit and destination involved in disposing of or recovering the waste are satisfied that the waste can be recovered or disposed of in an alternative way in the country of destination or elsewhere by the notifier or, if impracticable, by the competent authority of dispatch or by a natural or legal person on its behalf.

The take-back obligation in paragraph 2 shall not apply if the waste shipped has, in the course of the operation at the facility

concerned, been irreversibly mixed with other waste before a competent authority concerned has become aware of the fact that the notified shipment cannot be completed as referred to in paragraph 1. Such mixture shall be recovered or disposed of in an alternative way in accordance with the first subparagraph.

4. In cases of take-back as referred to in paragraph 2, a new notification shall be submitted, unless the competent authorities concerned agree that a duly reasoned request by the initial competent authority of dispatch is sufficient.

A new notification, where appropriate, shall be submitted by the initial notifier or, if impracticable, by any other natural or legal persons identified in accordance with point 15 of Article 2, or, if impracticable, by the initial competent authority of dispatch or by a natural or legal person on its behalf.

No competent authority shall oppose or object to the return of waste from a shipment that cannot be completed or to the related recovery and disposal operation.

5. In cases of alternative arrangements outside the initial country of destination as referred to in paragraph 3, a new notification, where appropriate, shall be submitted by the initial notifier or, if impracticable, by any other natural or legal persons identified in accordance with point 15 of Article 2, or, if impracticable, by the initial competent authority of dispatch or by a natural or legal person on its behalf.

When such a new notification is submitted by the notifier, this notification shall also be submitted to the competent authority of the initial country of dispatch.

6. In cases of alternative arrangements in the initial country of destination as referred to in paragraph 3, a new notification shall not be required and a duly reasoned request shall suffice. Such a duly reasoned request, seeking agreement to the alternative arrangement, shall be transmitted to the competent authority of destination and dispatch by the initial notifier or, if impracticable, to the competent authority of destination by the initial competent authority of dispatch.

7. If no new notification is to be submitted in accordance with paragraphs 4 or 6, a new movement document shall be completed in accordance with Article 15 or Article 16 by the initial notifier or, if impracticable, by any other natural or legal persons identified in accordance with point 15 of Article 2, or, if impracticable, by the initial competent authority of dispatch or by a natural or legal person on its behalf.

If a new notification is submitted by the initial competent authority of dispatch in accordance with paragraphs 4 or 5, a new financial guarantee or equivalent insurance shall not be required.

8. The obligation of the notifier and the subsidiary obligation of the country of dispatch to take the waste back or arrange for alternative recovery or disposal shall end when the facility issues the certificate of non-interim recovery or disposal as referred to in Article 16(e) or, where appropriate, in Article 15(e). In the cases of interim recovery or disposal referred to in Article 6(6), the subsidiary obligation of the country of dispatch shall end when the facility issues the certificate referred to in Article 15(d).

If a facility issues a certificate of recovery or disposal in such a way as to result in an illegal shipment, with the consequence that the financial guarantee is released, Article 24(3) and Article 25(2) shall apply.

9. Where waste from a shipment which cannot be completed, including its recovery or disposal, is discovered within a Member State, the competent authority with jurisdiction over the area where the waste was discovered shall be responsible for ensuring that arrangements are made for the safe storage of the waste pending its return or non-interim recovery or disposal in an alternative way.

Article 23

Costs for take-back when a shipment cannot be completed

1. Costs arising from the return of waste from a shipment that cannot be completed, including costs of its transport, recovery or disposal pursuant to Article 22(2) or (3) and, from the date on which the competent authority of dispatch becomes aware that a shipment of waste or its recovery or disposal cannot be completed, storage costs pursuant to Article 22(9) shall be charged:

- (a) to the notifier as identified in accordance with the ranking established in point 15 of Article 2; or, if impracticable;
- (b) to other natural or legal persons as appropriate; or, if impracticable;
- (c) to the competent authority of dispatch; or, if impracticable;
- (d) as otherwise agreed between the competent authorities concerned.

2. This Article shall be without prejudice to Community and national provisions concerning liability.

Article 24

Take-back when a shipment is illegal

1. Where a competent authority discovers a shipment that it considers to be an illegal shipment, it shall immediately inform the other competent authorities concerned.

2. If an illegal shipment is the responsibility of the notifier, the competent authority of dispatch shall ensure that the waste in question is:

- (a) taken back by the notifier de facto; or, if no notification has been submitted;
- (b) taken back by the notifier de jure; or, if impracticable;
- (c) taken back by the competent authority of dispatch itself or by a natural or legal person on its behalf; or, if impracticable;
- (d) alternatively recovered or disposed of in the country of destination or dispatch by the competent authority of dispatch itself or by a natural or legal person on its behalf; or, if impracticable;
- (e) alternatively recovered or disposed of in another country by the competent authority of dispatch itself or by a natural or legal person on its behalf if all the competent authorities concerned agree.

This take-back, recovery or disposal shall take place within 30 days, or such other period as may be agreed between the competent authorities concerned after the competent authority of dispatch becomes aware of or has been advised in writing by the competent authorities of destination or transit of the illegal shipment and informed of the reason(s) therefor. Such advice may result from information submitted to the competent authorities of destination or transit, *inter alia*, by other competent authorities.

In cases of take-back as referred to in (a), (b) and (c), a new notification shall be submitted, unless the competent authorities concerned agree that a duly reasoned request by the initial competent authority of dispatch is sufficient.

The new notification shall be submitted by the person or authority listed in (a), (b) or (c) and in accordance with that order.

No competent authority shall oppose or object to the return of waste of an illegal shipment. In the case of alternative arrangements as referred to in (d) and (e) by the competent authority of dispatch, a new notification shall be submitted by the initial competent authority of dispatch or by a natural or legal person on its behalf unless the competent authorities concerned agree that a duly reasoned request by that authority is sufficient.

3. If an illegal shipment is the responsibility of the consignee the competent authority of destination shall ensure that the waste in question is recovered or disposed of in an environmentally sound manner:

- (a) by the consignee; or, if impracticable,
- (b) by the competent authority itself or by a natural or legal person on its behalf.

This recovery or disposal shall take place within 30 days, or such other period as may be agreed between the competent authorities concerned after the competent authority of destination becomes aware of or has been advised in writing by the competent authorities of dispatch or transit of the illegal shipment and informed of the reason(s) therefor. Such advice may result from information submitted to the competent authorities of dispatch and transit, *inter alia*, by other competent authorities.

To this end, the competent authorities concerned shall cooperate, as necessary, in the recovery or disposal of the waste.

4. If no new notification is to be submitted, a new movement document shall be completed in accordance with Article 15 or 16 by the person responsible for take-back or, if impracticable, by the initial competent authority of dispatch.

If a new notification is submitted by the initial competent authority of dispatch, a new financial guarantee or equivalent insurance shall not be required.

5. In particular in cases where responsibility for the illegal shipment cannot be imputed to either the notifier or the consignee, the competent authorities concerned shall cooperate to ensure that the waste in question is recovered or disposed of.

6. In the cases of interim recovery or disposal referred to in Article 6(6) where an illegal shipment is discovered after completion of the interim recovery or disposal operation, the subsidiary obligation of the country of dispatch to take the waste back or arrange for alternative recovery or disposal shall end when the facility has issued the certificate referred to in Article 15 (d).

If a facility issues a certificate of recovery or disposal in such a way as to result in an illegal shipment, with the consequence that the financial guarantee is released, paragraph 3 and Article 25(2) shall apply.

7. Where the waste of an illegal shipment is discovered within a Member State, the competent authority with jurisdiction over the area where the waste was discovered shall be responsible for ensuring that arrangements are made for the safe storage of the waste pending its return or non-interim recovery or disposal in an alternative way.

8. Articles 34 and 36 shall not apply in cases where illegal shipments are returned to the country of dispatch and that country of dispatch is a country covered by the prohibitions set out in those Articles.

9. In the case of an illegal shipment as defined in point 35(g) of Article 2, the person who arranges the shipment shall be subject to the same obligations established in this Article as the notifier.

10. This Article shall be without prejudice to Community and national provisions concerning liability.

Article 25

Costs for take-back when a shipment is illegal

1. Costs arising from the take-back of waste of an illegal shipment, including costs of its transport, recovery or disposal pursuant to Article 24(2) and, from the date on which the competent authority of dispatch becomes aware that a shipment is illegal, storage costs pursuant to Article 24(7), shall be charged to:

- (a) the notifier de facto, as identified in accordance with the ranking established in point 15 of Article 2; or, if no notification has been submitted;
- (b) the notifier de jure or other natural or legal persons as appropriate; or, if impracticable;
- (c) the competent authority of dispatch.

2. Costs arising from recovery or disposal pursuant to Article 24(3), including possible transport and storage costs pursuant to Article 24(7), shall be charged to:

- (a) the consignee; or, if impracticable;
- (b) the competent authority of destination.

3. Costs arising from recovery or disposal pursuant to Article 24(5), including possible transport and storage costs pursuant to Article 24(7), shall be charged to:

- (a) the notifier, as identified in accordance with the ranking established in point 15 of Article 2, and/or the consignee, depending upon the decision by the competent authorities involved; or, if impracticable,
- (b) other natural or legal persons as appropriate; or, if impracticable,
- (c) the competent authorities of dispatch and destination.

4. In the case of an illegal shipment as defined in point 35(g) of Article 2, the person who arranges the shipment shall be subject to the same obligations established in this Article as the notifier.

5. This Article shall be without prejudice to Community and national provisions concerning liability.

CHAPTER 5

General administrative provisions

Article 26

Format of the communications

1. The information and documents listed below may be submitted by post:

- (a) notification of a planned shipment pursuant to Articles 4 and 13;
- (b) request for information and documentation pursuant to Articles 4, 7 and 8;
- (c) submission of information and documentation pursuant to Articles 4, 7 and 8;
- (d) written consent to a notified shipment pursuant to Article 9;
- (e) conditions for a shipment pursuant to Article 10;
- (f) objections to a shipment pursuant to Articles 11 and 12;
- (g) information on decisions to issue pre-consents to specific recovery facilities pursuant to Article 14(3);
- (h) written confirmation of receipt of the waste pursuant to Articles 15 and 16;
- (i) certificate for recovery or disposal of the waste pursuant to Articles 15 and 16;
- (j) prior information regarding actual start of the shipment pursuant to Article 16;
- (k) information on changes in the shipment after consent pursuant to Article 17; and
- (l) written consents and movement documents to be sent pursuant to Titles IV, V and VI.

2. Subject to the agreement of the competent authorities concerned and the notifier, the documents referred to in paragraph 1 may alternatively be submitted using any of the following methods of communication:

- (a) by fax; or
- (b) by fax followed by post; or
- (c) by e-mail with digital signature. In this case, any stamp or signature required shall be replaced by the digital signature; or

(d) by e-mail without digital signature followed by post.

3. The documents to accompany each transport in accordance with Article 16(c) and Article 18 may be in an electronic form with digital signatures if they can be made readable at any time during the transport and if this is acceptable to the competent authorities concerned.

4. Subject to the agreement of the competent authorities concerned and of the notifier, the information and documents listed in paragraph 1 may be submitted and exchanged by means of electronic data interchange with electronic signature or electronic authentication in accordance with Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures ⁽¹⁾, or a comparable electronic authentication system which provides the same level of security. In such cases, organisational arrangements concerning the flow of electronic data interchange may be made.

Article 27

Language

1. Any notification, information, documentation or other communication submitted pursuant to the provisions of this Title shall be supplied in a language acceptable to the competent authorities concerned.

2. The notifier shall provide the competent authorities concerned with authorised translation(s) into a language which is acceptable to them, should they so request.

Article 28

Disagreement on classification issues

1. If the competent authorities of dispatch and of destination cannot agree on the classification as regards the distinction between waste and non-waste, the subject matter shall be treated as if it were waste. This shall be without prejudice to the right of the country of destination to deal with the shipped material in accordance with its national legislation, following arrival of the shipped material and where such legislation is in accordance with Community or international law.

2. If the competent authorities of dispatch and of destination cannot agree on the classification of the notified waste as being listed in Annex III, IIIA, IIIB or IV, the waste shall be regarded as listed in Annex IV.

3. If the competent authorities of dispatch and destination cannot agree on the classification of the waste treatment operation notified as being recovery or disposal, the provisions regarding disposal shall apply.

4. Paragraphs 1 to 3 shall apply only for the purposes of this Regulation, and shall be without prejudice to rights of interested

parties to resolve any dispute related to these questions before a court of law or tribunal.

Article 29

Administrative costs

Appropriate and proportionate administrative costs of implementing the notification and supervision procedures and usual costs of appropriate analyses and inspections may be charged to the notifier.

Article 30

Border-area agreements

1. In exceptional cases, and if the specific geographical or demographical situation warrants such a step, Member States may conclude bilateral agreements making the notification procedure for shipments of specific flows of waste less stringent in respect of cross-border shipments to the nearest suitable facility located in the border area between the two Member States concerned.

2. Such bilateral agreements may also be concluded where waste is shipped from and treated in the country of dispatch but transits another Member State.

3. Member States may also conclude such agreements with countries that are Parties to the Agreement on the European Economic Area.

4. Such agreements shall be notified to the Commission before they take effect.

CHAPTER 6

Shipments within the Community with transit via third countries

Article 31

Shipments of waste destined for disposal

Where a shipment of waste takes place within the Community with transit via one or more third countries, and the waste is destined for disposal, the competent authority of dispatch shall, in addition to the provisions of this Title, ask the competent authority in the third countries whether it wishes to send its written consent to the planned shipment:

- (a) in the case of Parties to the Basel Convention, within 60 days, unless it has waived this right in accordance with the terms of that Convention; or
- (b) in the case of countries not Parties to the Basel Convention, within a period agreed between the competent authorities.

⁽¹⁾ OJ L 13, 19.1.2000, p. 12.

Article 32

Shipments of waste destined for recovery

1. When a shipment of waste takes place within the Community with transit via one or more third countries to which the OECD Decision does not apply, and the waste is destined for recovery, Article 31 shall apply.

2. When a shipment of waste takes place within the Community, including shipments between localities in the same Member State, with transit via one or more third countries to which the OECD Decision applies, and the waste is destined for recovery, the consent referred to in Article 9 may be provided tacitly, and if no objection has been lodged or no conditions have been specified, the shipment may start 30 days after the date of transmission of the acknowledgement by the competent authority of destination in accordance with Article 8.

TITLE III

SHIPMENTS EXCLUSIVELY WITHIN MEMBER STATES

Article 33

Application of this Regulation to shipments exclusively within Member States

1. Member States shall establish an appropriate system for the supervision and control of shipments of waste exclusively within their jurisdiction. This system shall take account of the need for coherence with the Community system established by Titles II and VII.

2. Member States shall inform the Commission of their system for supervision and control of shipments of waste. The Commission shall inform the other Member States thereof.

3. Member States may apply the system provided for in Titles II and VII within their jurisdiction.

TITLE IV

EXPORTS FROM THE COMMUNITY TO THIRD COUNTRIES

CHAPTER 1

Exports of waste for disposal

Article 34

Export prohibited except to EFTA countries

1. All exports of waste from the Community destined for disposal shall be prohibited.

2. The prohibition in paragraph 1 shall not apply to exports of waste destined for disposal in EFTA countries which are also Parties to the Basel Convention.

3. However, exports of waste for disposal to an EFTA country Party to the Basel Convention shall also be prohibited:

- (a) where the EFTA country prohibits imports of such waste; or
- (b) if the competent authority of dispatch has reason to believe that the waste will not be managed in an environmentally sound manner, as referred to in Article 49, in the country of destination concerned.

4. This provision shall be without prejudice to the take-back obligations as laid down in Articles 22 and 24.

Article 35

Procedures when exporting to EFTA countries

1. Where waste is exported from the Community and destined for disposal in EFTA countries Parties to the Basel Convention, the provisions of Title II shall apply *mutatis mutandis*, with the adaptations and additions listed in paragraphs 2 and 3.

2. The following adaptations shall apply:

- (a) the competent authority of transit outside the Community shall have 60 days following the date of transmission of its acknowledgement of receipt of the notification in which to request additional information on the notified shipment, to provide, if the country concerned has decided not to require prior written consent and has informed the other Parties thereof in accordance with Article 6(4) of the Basel Convention, tacit consent or to give a written consent with or without conditions; and
- (b) the competent authority of dispatch in the Community shall take the decision to consent to the shipment as referred to in Article 9 only after having received written consent from the competent authority of destination and, where appropriate, the tacit or written consent of the competent authority of transit outside the Community, and not earlier than 61 days following the date of transmission of the acknowledgement by the competent authority of transit. The competent authority of dispatch may take the decision before the conclusion of the 61-day time limit if it has the written consent of the other competent authorities concerned.

3. The following additional provisions shall apply:

- (a) the competent authority of transit in the Community shall acknowledge the receipt of the notification to the notifier;
- (b) the competent authorities of dispatch and, where appropriate, transit in the Community shall send a stamped copy of their decisions to consent to the shipment to the customs office of export and to the customs office of exit from the Community;

- (c) a copy of the movement document shall be delivered by the carrier to the customs office of export and the customs office of exit from the Community;
- (d) as soon as the waste has left the Community, the customs office of exit from the Community shall send a stamped copy of the movement document to the competent authority of dispatch in the Community stating that the waste has left the Community;
- (e) if, 42 days after the waste has left the Community, the competent authority of dispatch in the Community has received no information from the facility about receipt of the waste, it shall without delay inform the competent authority of destination; and
- (f) the contract referred to in the second subparagraph, point 4 of Article 4 and in Article 5 shall stipulate that:
- (i) if a facility issues an incorrect certificate of disposal with the consequence that the financial guarantee is released, the consignee shall bear the costs arising from the duty to return the waste to the area of jurisdiction of the competent authority of dispatch and from its recovery or disposal in an alternative and environmentally sound manner,
- (ii) within three days of receipt of the waste for disposal, the facility shall send signed copies of the completed movement document, except for the certificate of disposal referred to in subpoint iii, to the notifier and the competent authorities concerned, and
- (iii) as soon as possible but no later than 30 days after completion of disposal, and no later than one calendar year following the receipt of the waste the facility shall, under its responsibility, certify that the disposal has been completed and shall send signed copies of the movement document containing this certification to the notifier and to the competent authorities concerned.
4. The shipment may take place only if:
- (a) the notifier has received written consent from the competent authorities of dispatch, destination and, where appropriate, transit outside the Community and if the conditions laid down are met;
- (b) a contract between the notifier and consignee has been concluded and is effective, as required in the second subparagraph, point 4 of Article 4 and in Article 5;
- (c) a financial guarantee or equivalent insurance has been established and is effective, as required in the second subparagraph, point 5 of Article 4 and in Article 6; and
- (d) environmentally sound management, as referred to in Article 49, is ensured.

5. Where waste is exported, it shall be destined for disposal operations within a facility which, under applicable national law, is operating or is authorised to operate in the country of destination.

6. If a customs office of export or a customs office of exit from the Community discovers an illegal shipment, it shall without delay inform the competent authority in the country of the customs office which shall:

- (a) without delay inform the competent authority of dispatch in the Community; and
- (b) ensure detention of the waste until the competent authority of dispatch has decided otherwise and has communicated that decision in writing to the competent authority in the country of the customs office in which the waste is detained.

CHAPTER 2

Exports of waste for recovery

Section 1

Exports to non-OECD Decision countries

Article 36

Exports prohibition

1. Exports from the Community of the following wastes destined for recovery in countries to which the OECD Decision does not apply are prohibited:

- (a) wastes listed as hazardous in Annex V;
- (b) wastes listed in Annex V, Part 3;
- (c) hazardous wastes not classified under one single entry in Annex V;
- (d) mixtures of hazardous wastes and mixtures of hazardous wastes with non-hazardous wastes not classified under one single entry in Annex V;
- (e) wastes that the country of destination has notified to be hazardous under Article 3 of the Basel Convention;
- (f) wastes the import of which has been prohibited by the country of destination; or
- (g) wastes which the competent authority of dispatch has reason to believe will not be managed in an environmentally sound manner, as referred to in Article 49, in the country of destination concerned.

2. This provision shall be without prejudice to the take-back obligations as set out in Articles 22 and 24.

3. Member States may, in exceptional cases, adopt provisions to determine, on the basis of documentary evidence provided in an appropriate way by the notifier, that a specific hazardous waste listed in Annex V is excluded from the export prohibition if it does not display any of the properties listed in Annex III to Directive 91/689/EEC, taking into account, as regards the properties H3 to H8, H10 and H11 defined in that Annex, the limit values laid down in Commission Decision 2000/532/EC of 3 May 2000 replacing Decision 94/3/EC establishing a list of wastes pursuant to Article 1(a) of Council Directive 75/442/EEC on waste and Council Decision 94/904/EC establishing a list of hazardous waste pursuant to Article 1(4) of Council Directive 91/689/EEC on hazardous waste ⁽¹⁾.

4. The fact that waste is not listed as hazardous in Annex V, or that it is listed in Annex V, Part 1, List B, shall not preclude, in exceptional cases, characterisation of such waste as hazardous and therefore subject to the export prohibition if it displays any of the properties listed in Annex III to Directive 91/689/EEC, taking into account, as regards the properties H3 to H8, H10 and H11 defined in that Annex, the limit values laid down in Commission Decision 2000/532/EC, as provided for in Article 1(4), second indent, of Directive 91/689/EEC and in the introductory paragraph of Annex III to this Regulation.

5. In the cases referred to in paragraphs 3 and 4, the Member State concerned shall inform the envisaged country of destination prior to taking a decision. Member States shall notify such cases to the Commission before the end of each calendar year. The Commission shall forward the information to all Member States and to the Secretariat of the Basel Convention. On the basis of the information provided, the Commission may make comments and, where appropriate, adapt Annex V in accordance with Article 58.

Article 37

Procedures when exporting waste listed in Annex III or IIIA

1. In the case of waste which is listed in Annex III or IIIA and the export of which is not prohibited under Article 36, the Commission shall, within 20 days of the entry into force of this Regulation, send a written request to each country to which the OECD Decision does not apply, seeking:

- (i) confirmation in writing that the waste may be exported from the Community for recovery in that country, and
- (ii) an indication as to which control procedure, if any, would be followed in the country of destination.

Each country to which the OECD Decision does not apply shall be given the following options:

- (a) a prohibition; or
- (b) a procedure of prior written notification and consent as described in Article 35; or

- (c) no control in the country of destination.

2. Before the date of application of this Regulation, the Commission shall adopt a Regulation taking into account all replies received pursuant to paragraph 1 and shall inform the Committee established pursuant to Article 18 of Directive 2006/12/EC.

If a country has not issued a confirmation as referred to in paragraph 1 or if a country for any reason has not been contacted, paragraph 1(b) shall apply.

The Commission shall periodically update the Regulation adopted.

3. If a country indicates in its reply that certain shipments of waste are not subject to any control, Article 18 shall apply *mutatis mutandis* to such shipments.

4. Where waste is exported, it shall be destined for recovery operations within a facility which, under applicable national law, is operating or is authorised to operate in the country of destination.

5. In the case of a shipment of waste not classified under one single entry in Annex III or a shipment of mixtures of wastes not classified under one single entry in Annex III or IIIA or a shipment of waste classified in Annex IIIB, and provided that the export is not prohibited pursuant to Article 36, paragraph 1(b) of this Article shall apply.

Section 2

Exports to OECD-Decision countries

Article 38

Exports of waste listed in Annexes III, IIIA, IIIB, IV and IVA

1. Where waste listed in Annexes III, IIIA, IIIB, IV and IVA, waste not classified or mixtures of wastes not classified under one single entry in either Annex III, IV or IVA are exported from the Community and destined for recovery in countries to which the OECD Decision applies, with or without transit through countries to which the OECD Decision applies, the provisions of Title II shall apply *mutatis mutandis*, with the adaptations and additions listed in paragraphs 2, 3 and 5.

1. The following adaptations shall apply:

- (a) mixtures of wastes listed in Annex IIIA destined for an interim operation shall be subject to the procedure of prior written notification and consent if any subsequent interim or non-interim recovery or disposal operation is to take place in a country to which the OECD Decision does not apply;

⁽¹⁾ OJ L 226, 6.9.2000, p. 3. Decision as last amended by Council Decision 2001/573/EC (OJ L 203, 28.7.2001, p. 18).

- (b) waste listed in Annex IIIB shall be subject to the procedure of prior written notification and consent;
- (c) the consent as required in accordance with Article 9 may be provided in the form of tacit consent from the competent authority of destination outside the Community.
3. As regards exports of waste listed in Annexes IV and IVA, the following additional provisions shall apply:
- (a) the competent authorities of dispatch and, where appropriate, transit in the Community shall send a stamped copy of their decisions to consent to the shipment to the customs office of export and to the customs office of exit from the Community;
- (b) a copy of the movement document shall be delivered by the carrier to the customs office of export and customs office of exit from the Community;
- (c) as soon as the waste has left the Community, the customs office of exit from the Community shall send a stamped copy of the movement document to the competent authority of dispatch in the Community stating that the waste has left the Community;
- (d) if, 42 days after the waste has left the Community, the competent authority of dispatch in the Community has received no information from the facility about receipt of the waste, it shall without delay inform the competent authority of destination; and
- (e) the contract referred to in the second subparagraph, point 4 of Article 4 and in Article 5 shall stipulate that:
- (i) if a facility issues an incorrect certificate of recovery with the consequence that the financial guarantee is released, the consignee shall bear the costs arising from the duty to return the waste to the area of jurisdiction of the competent authority of dispatch and from its recovery or disposal in an alternative and environmentally sound manner,
- (ii) within three days of receipt of the waste for recovery, the facility shall send signed copies of the completed movement document, except for the certificate of recovery referred to in subpoint iii, to the notifier and the competent authorities concerned, and
- (iii) as soon as possible but no later than 30 days after completion of recovery, and no later than one calendar year following the receipt of the waste the facility shall, under its responsibility, certify that the recovery has been completed and shall send signed copies of the movement document containing this certification to the notifier and to the competent authorities concerned.
4. The shipment may take place only if:
- (a) the notifier has received written consent from the competent authorities of dispatch, destination and, where appropriate, transit or, if tacit consent from the competent authorities of destination and transit outside the Community is provided or can be assumed and if the conditions laid down are met;
- (b) Article 35(4)(b), (c) and (d) is complied with.
5. If an export as described in paragraph 1 of waste listed in Annexes IV and IVA is in transit through a country to which the OECD Decision does not apply, the following adaptations shall apply:
- (a) the competent authority of transit to which the OECD Decision does not apply shall have 60 days following the date of transmission of its acknowledgement of receipt of the notification in which to request additional information on the notified shipment, to provide, if the country concerned has decided not to require prior written consent and has informed the other Parties thereof in accordance with Article 6(4) of the Basel Convention, tacit consent or to give a written consent with or without conditions; and
- (b) the competent authority of dispatch in the Community shall take the decision to consent to the shipment as referred to in Article 9 only after having received tacit or written consent from that competent authority of transit to which the OECD Decision does not apply, and not earlier than 61 days following the date of transmission of the acknowledgement of the competent authority of transit. The competent authority of dispatch may take the decision before the conclusion of the 61-day time limit if it has the written consent of the other competent authorities concerned.
6. Where waste is exported, it shall be destined for recovery operations within a facility which, under applicable national law, is operating or is authorised to operate in the country of destination.
7. If a customs office of export or a customs office of exit from the Community discovers an illegal shipment, it shall without delay inform the competent authority in the country of the customs office which shall:
- (a) without delay inform the competent authority of dispatch in the Community; and
- (b) ensure detention of the waste until the competent authority of dispatch has decided otherwise and has communicated that decision in writing to the competent authority in the country of the customs office in which the waste is detained.

CHAPTER 3

General provisions

Article 39

Exports to the Antarctic

Exports of waste from the Community to the Antarctic shall be prohibited.

Article 40

Exports to overseas countries or territories

1. Exports from the Community of waste destined for disposal in overseas countries or territories shall be prohibited.

2. As regards exports of waste destined for recovery in overseas countries or territories, the prohibition set out in Article 36 shall apply *mutatis mutandis*.

3. As regards exports of waste destined for recovery in overseas countries or territories not covered by the prohibition set out in paragraph 2, the provisions of Title II shall apply *mutatis mutandis*.

TITLE V

IMPORTS INTO THE COMMUNITY FROM THIRD COUNTRIES

CHAPTER 1

Imports of waste for disposal

Article 41

Imports prohibited except from a country Party to the Basel Convention or with an agreement in place or from other areas during situations of crisis or war

1. Imports into the Community of waste destined for disposal shall be prohibited except those from:

- (a) countries which are Parties to the Basel Convention; or
- (b) other countries with which the Community, or the Community and its Member States, have concluded bilateral or multilateral agreements or arrangements compatible with Community legislation and in accordance with Article 11 of the Basel Convention; or
- (c) other countries with which individual Member States have concluded bilateral agreements or arrangements in accordance with paragraph 2; or
- (d) other areas in cases where, on exceptional grounds during situations of crisis, peacemaking, peacekeeping or war, no bilateral agreements or arrangements pursuant to points (b) or (c) can be concluded or where a competent authority in the country of dispatch has either not been designated or is unable to act.

2. In exceptional cases, individual Member States may conclude bilateral agreements and arrangements for the disposal of specific waste in those Member States, where such waste will not be managed in an environmentally sound manner, as referred to in Article 49, in the country of dispatch.

These agreements and arrangements shall be compatible with Community legislation and in accordance with Article 11 of the Basel Convention.

These agreements and arrangements shall guarantee that the disposal operations will be carried out in an authorised facility and will comply with the requirements for environmentally sound management.

These agreements and arrangements shall also guarantee that the waste is produced in the country of dispatch and that disposal will be carried out exclusively in the Member State which has concluded the agreement or arrangement.

These agreements or arrangements shall be notified to the Commission prior to their conclusion. However, in emergency situations they may be notified up to one month after conclusion.

3. Bilateral or multilateral agreements or arrangements entered into in accordance with paragraph 1(b) and (c) shall be based upon the procedural requirements of Article 42.

4. The countries referred to in paragraph 1(a), (b) and (c) shall be required to present a prior duly reasoned request to the competent authority of the Member State of destination on the basis that they do not have and cannot reasonably acquire the technical capacity and the necessary facilities in order to dispose of the waste in an environmentally sound manner.

Article 42

Procedural requirements for imports from a country Party to the Basel Convention or from other areas during situations of crisis or war

1. Where waste is imported into the Community and destined for disposal from countries Parties to the Basel Convention, the provisions of Title II shall apply *mutatis mutandis*, with the adaptations and additions listed in paragraphs 2 and 3.

2. The following adaptations shall apply:

- (a) the competent authority of transit outside the Community shall have 60 days following the date of transmission of its acknowledgement of receipt of the notification in which to request additional information on the notified shipment, to provide, if the country concerned has decided not to require prior written consent and has informed the other Parties thereof in accordance with Article 6(4) of the Basel Convention, tacit consent or to give a written consent with or without conditions; and

- (b) in the cases referred to in Article 41(1)(d) involving situations of crisis, peacemaking, peacekeeping or war, the consent of the competent authorities of dispatch shall not be required.

3. The following additional provisions shall apply:

- (a) the competent authority of transit in the Community shall acknowledge the receipt of the notification to the notifier, with copies to the competent authorities concerned;
- (b) the competent authorities of destination and, where appropriate, transit in the Community shall send a stamped copy of their decisions to consent to the shipment to the customs office of entry into the Community;
- (c) a copy of the movement document shall be delivered by the carrier to the customs office of entry into the Community; and
- (d) having carried out the necessary customs formalities, the customs office of entry into the Community shall send a stamped copy of the movement document to the competent authorities of destination and transit in the Community, stating that the waste has entered the Community.

4. The shipment may take place only if:

- (a) the notifier has received written consent from the competent authorities of dispatch, destination and, where appropriate, transit and if the conditions laid down are met;
- (b) a contract between the notifier and consignee has been concluded and is effective, as required in the second subparagraph, point 4 of Article 4 and in Article 5;
- (c) a financial guarantee or equivalent insurance has been established and is effective, as required in the second subparagraph, point 5 of Article 4 and in Article 6; and
- (d) environmentally sound management, as referred to in Article 49, is ensured.

5. If a customs office of entry into the Community discovers an illegal shipment, it shall without delay inform the competent authority in the country of the customs office which shall:

- (a) without delay inform the competent authority of destination in the Community which shall inform the competent authority of dispatch outside the Community; and
- (b) ensure detention of the waste until the competent authority of dispatch outside the Community has decided otherwise and has communicated that decision in writing to the competent authority in the country of the customs office in which the waste is detained.

CHAPTER 2

Imports of waste for recovery

Article 43

Imports prohibited except from an OECD Decision country or a country Party to the Basel Convention or with an agreement in place or from other areas during situations of crisis or war

1. All imports into the Community of waste destined for recovery shall be prohibited except those from:

- (a) countries to which the OECD Decision applies; or
- (b) other countries which are Parties to the Basel Convention; or
- (c) other countries with which the Community, or the Community and its Member States, have concluded bilateral or multilateral agreements or arrangements compatible with Community legislation and in accordance with Article 11 of the Basel Convention; or
- (d) other countries with which individual Member States have concluded bilateral agreements or arrangements in accordance with paragraph 2; or
- (e) other areas in cases where, on exceptional grounds during situations of crisis, peacemaking, peacekeeping or war, no bilateral agreements or arrangements pursuant to points (b) or (c) can be concluded or where a competent authority in the country of dispatch has either not been designated or is unable to act.

2. In exceptional cases, individual Member States may conclude bilateral agreements and arrangements for the recovery of specific waste in those Member States, where such waste will not be managed in an environmentally sound manner, as referred to in Article 49, in the country of dispatch.

In such cases Article 41(2) shall apply.

3. Bilateral or multilateral agreements or arrangements entered into in accordance with paragraph 1(c) and (d) shall be based upon the procedural requirements of Article 42 in so far as may be relevant.

Article 44

Procedural requirements for imports from an OECD Decision country or from other areas during situations of crisis or war

1. Where waste destined for recovery is imported into the Community from countries and through countries to which the OECD Decision applies, the provisions of Title II shall apply *mutatis mutandis*, with the adaptations and additions listed in paragraphs 2 and 3.

2. The following adaptations shall apply:

Article 45

- (a) the consent as required in accordance with Article 9 may be provided in the form of tacit consent from the competent authority of dispatch outside the Community;
- (b) prior written notification in accordance with Article 4 may be submitted by the notifier; and
- (c) in the cases referred to in Article 43(1)(e) involving situations of crisis, peacemaking, peacekeeping or war, the consent of the competent authorities of dispatch shall not be required.

3. In addition, Article 42(3)(b), (c) and (d) shall be complied with.

4. The shipment may take place only if:

- (a) the notifier has received written consent from the competent authorities of dispatch, destination and, where appropriate, transit or if tacit consent from the competent authority of dispatch outside the Community is provided or can be assumed and if the conditions laid down are met;
- (b) a contract between the notifier and consignee has been concluded and is effective, as required in the second subparagraph, point 4 of Article 4 and in Article 5;
- (c) a financial guarantee or equivalent insurance has been established and is effective, as required in the second subparagraph, point 5 of Article 4 and in Article 6; and
- (d) environmentally sound management, as referred to in Article 49, is ensured.

5. If a customs office of entry into the Community discovers an illegal shipment, it shall without delay inform the competent authority in the country of the customs office which shall:

- (a) without delay inform the competent authority of destination in the Community which shall inform the competent authority of dispatch outside the Community; and
- (b) ensure detention of the waste until the competent authority of dispatch outside the Community has decided otherwise and has communicated that decision in writing to the competent authority in the country of the customs office in which the waste is detained.

Procedural requirements for imports from a non-OECD Decision country Party to the Basel Convention or from other areas during situations of crisis or war

Where waste destined for recovery is imported into the Community:

- (a) from a country to which the OECD Decision does not apply; or
- (b) through any country to which the OECD Decision does not apply and which is also Party to the Basel Convention,

Article 42 shall apply *mutatis mutandis*.

CHAPTER 3

General provisions

Article 46

Imports from overseas countries or territories

1. Where waste is imported into the Community from overseas countries or territories, Title II shall apply *mutatis mutandis*.
2. One or more overseas countries and territories and the Member State to which they are linked may apply national procedures to shipments from the overseas country or territory to that Member State.
3. Member States which apply paragraph 2 shall notify the Commission of the national procedures applied.

TITLE VI

TRANSIT THROUGH THE COMMUNITY FROM AND TO THIRD COUNTRIES

CHAPTER 1

Transit of waste for disposal

Article 47

Transit through the Community of waste destined for disposal

Where waste destined for disposal is shipped through Member States from and to third countries, Article 42 shall apply *mutatis mutandis*, with the adaptations and additions listed below:

- (a) the first and last competent authority of transit in the Community shall, where appropriate, send a stamped copy of the decisions to consent to the shipment or, if they have provided tacit consent, a copy of the acknowledgement in accordance with Article 42(3)(a) to the customs offices of entry into and exit from the Community respectively; and

- (b) as soon as the waste has left the Community, the customs office of exit from the Community shall send a stamped copy of the movement document to the competent authority(ies) of transit in the Community, stating that the waste has left the Community.

CHAPTER 2

Transit of waste for recovery

Article 48

Transit through the Community of waste destined for recovery

1. Where waste destined for recovery is shipped through Member States from and to a country to which the OECD Decision does not apply, Article 47 shall apply *mutatis mutandis*.
2. Where waste destined for recovery is shipped through Member States from and to a country to which the OECD Decision applies, Article 44 shall apply *mutatis mutandis*, with the adaptations and additions listed below:
 - (a) the first and last competent authority of transit in the Community shall, where appropriate, send a stamped copy of the decisions to consent to the shipment or, if they have provided tacit consent, a copy of the acknowledgement in accordance with Article 42(3)(a) to the customs offices of entry into and exit from the Community respectively; and
 - (b) as soon as the waste has left the Community, the customs office of exit from the Community shall send a stamped copy of the movement document to the competent authority(ies) of transit in the Community, stating that the waste has left the Community.
3. Where waste destined for recovery is shipped through Member States from a country to which the OECD Decision does not apply to a country to which the OECD Decision applies or vice versa, paragraph 1 shall apply as regards the country to which the OECD Decision does not apply and paragraph 2 shall apply as regards the country to which the OECD Decision applies.

TITLE VII

OTHER PROVISIONS

CHAPTER 1

Additional obligations

Article 49

Protection of the environment

1. The producer, the notifier and other undertakings involved in a shipment of waste and/or its recovery or disposal shall take the necessary steps to ensure that any waste they ship is managed without endangering human health and in an environmentally sound manner throughout the period of shipment and during its

recovery and disposal. In particular, when the shipment takes place in the Community, the requirements of Article 4 of Directive 2006/12/EC and other Community legislation on waste shall be respected.

2. In the case of exports from the Community, the competent authority of dispatch in the Community shall:

- (a) require and endeavour to secure that any waste exported is managed in an environmentally sound manner throughout the period of shipment, including recovery as referred to in Articles 36 and 38 or disposal as referred to in Article 34, in the third country of destination;
- (b) prohibit an export of waste to third countries if it has reason to believe that the waste will not be managed in accordance with the requirements of point (a).

Environmentally sound management may, *inter alia*, be assumed as regards the waste recovery or disposal operation concerned, if the notifier or the competent authority in the country of destination can demonstrate that the facility which receives the waste will be operated in accordance with human health and environmental protection standards that are broadly equivalent to standards established in Community legislation.

This assumption shall, however, be without prejudice to the overall assessment of environmentally sound management throughout the period of shipment and including recovery or disposal in the third country of destination.

For the purposes of seeking guidance on environmentally sound management, the guidelines listed in Annex VIII may be considered.

3. In the case of imports into the Community, the competent authority of destination in the Community shall:

- (a) require and take the necessary steps to ensure that any waste shipped into its area of jurisdiction is managed without endangering human health and without using processes or methods which could harm the environment, and in accordance with Article 4 of Directive 2006/12/EC and other Community legislation on waste throughout the period of shipment, including recovery or disposal in the country of destination;
- (b) prohibit an import of waste from third countries if it has reason to believe that the waste will not be managed in accordance with the requirements of point (a).

Article 50

Enforcement in Member States

1. Member States shall lay down the rules on penalties applicable for infringement of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify the

Commission of their national legislation relating to prevention and detection of illegal shipments and penalties for such shipments.

2. Member States shall, by way of measures for the enforcement of this Regulation, provide, *inter alia*, for inspections of establishments and undertakings in accordance with Article 13 of Directive 2006/12/EC, and for spot checks on shipments of waste or on the related recovery or disposal.

3. Checks on shipments may take place in particular:

- (a) at the point of origin, carried out with the producer, holder or notifier;
- (b) at the destination, carried out with the consignee or the facility;
- (c) at the frontiers of the Community; and/or
- (d) during the shipment within the Community.

4. Checks on shipments shall include the inspection of documents, the confirmation of identity and, where appropriate, physical checking of the waste.

5. Member States shall cooperate, bilaterally or multilaterally, with one another in order to facilitate the prevention and detection of illegal shipments.

6. Member States shall identify those members of their permanent staff responsible for the cooperation referred to in paragraph 5 and identify the focal point(s) for the physical checks referred to in paragraph 4. The information shall be sent to the Commission which shall distribute a compiled list to the correspondents referred to in Article 54.

7. At the request of another Member State, a Member State may take enforcement action against persons suspected of being engaged in the illegal shipment of waste who are present in that Member State.

Article 51

Reports by Member States

1. Before the end of each calendar year, each Member State shall send the Commission a copy of the report for the previous calendar year which, in accordance with Article 13(3) of the Basel Convention, it has drawn up and submitted to the Secretariat of that Convention.

2. Before the end of each calendar year, Member States shall also draw up a report for the previous year based on the additional reporting questionnaire in Annex IX, and shall send it to the Commission.

3. The reports drawn up by Member States in accordance with paragraphs 1 and 2 shall be submitted to the Commission in an electronic version.

4. The Commission shall establish every three years a report, based on these reports, on the implementation of this Regulation by the Community and its Member States.

Article 52

International cooperation

Member States, where appropriate and necessary in liaison with the Commission, shall cooperate with other Parties to the Basel Convention and inter-State organisations, *inter alia*, via the exchange and/or sharing of information, the promotion of environmentally sound technologies and the development of appropriate codes of good practice.

Article 53

Designation of competent authorities

Member States shall designate the competent authority or authorities responsible for the implementation of this Regulation. Each Member State shall designate only one single competent authority of transit.

Article 54

Designation of correspondents

Member States and the Commission shall each designate one or more correspondents responsible for informing or advising persons or undertakings making enquiries. The Commission correspondent shall forward to the correspondents of the Member States any questions put to him/her which concern the latter, and vice versa.

Article 55

Designation of customs offices of entry into and exit from the Community

Member States may designate specific customs offices of entry into and exit from the Community for shipments of waste entering and leaving the Community. If Member States decide to designate such customs offices, no shipment of waste shall be allowed to use any other frontier crossing points within a Member State for the purposes of entering or leaving the Community.

Article 56

Notification of, and information regarding, designations

1. Member States shall notify the Commission of designations of:

- (a) competent authorities, pursuant to Article 53;
- (b) correspondents, pursuant to Article 54; and,
- (c) where appropriate, customs offices of entry into and exit from the Community, pursuant to Article 55.

2. In relation to those designations, Member States shall notify the Commission of the following information:

- (a) name(s);
- (b) postal address(es);
- (c) e-mail address(es);
- (d) telephone number(s);
- (e) fax number(s); and
- (f) languages acceptable to the competent authorities.

3. Member States shall immediately notify the Commission of any changes in this information.

4. This information as well as any changes in the information shall be submitted to the Commission in an electronic as well as a paper version if so required.

5. The Commission shall publish on its web-site lists of the designated competent authorities, correspondents and customs offices of entry into and exit from the Community, and shall update these lists as appropriate.

CHAPTER 2

Other provisions

Article 57

Meeting of the correspondents

The Commission shall, if requested by Member States or if otherwise appropriate, periodically hold a meeting of the correspondents to examine the questions raised by the implementation of this Regulation. Relevant stakeholders shall be invited to such meetings, or parts of meetings, where all Member States and the Commission are in agreement that this is appropriate.

Article 58

Amendment of Annexes

1. The Annexes may be amended by the Commission by means of Regulations and in accordance with the procedure referred to in Article 18(3) of Directive 2006/12/EC, to take account of scientific and technical progress. In addition:

- (a) Annexes I, II, III, IIIA, IV and V shall be amended to take account of changes agreed under the Basel Convention and the OECD Decision; in addition, Annex IC on specific instructions for completing the notification and movement documents shall be completed at the latest by the date of application of this Regulation having regard to the OECD instructions;

- (b) unclassified wastes may be added to Annex IIIB, IV or V on a provisional basis pending a decision on their inclusion in the relevant Annexes to the Basel Convention or to the OECD Decision;

- (c) following the submission of a request by a Member State, mixtures of two or more wastes listed in Annex III may be considered for inclusion in Annex IIIA in the cases referred to in Article 3(2) on a provisional basis pending a decision on their inclusion in the relevant Annexes to the Basel Convention or to the OECD Decision. The initial entries to be included in Annex IIIA shall be inserted, if practicable, by the date of application of this Regulation and at the latest six months after that date. Annex IIIA may contain the proviso that one or more of the entries therein shall not apply for exports to countries to which the OECD Decision does not apply;

- (d) the exceptional cases referred to in Article 3(3) shall be determined and, where necessary, such waste shall be added to Annexes IVA and V and deleted from Annex III;

- (e) Annex V shall be amended to reflect agreed changes to the list of hazardous waste adopted in accordance with Article 1(4) of Directive 91/689/EEC;

- (f) Annex VIII shall be amended to reflect relevant international conventions and agreements.

2. When amending Annex IX, the Committee established by Council Directive 91/692/EEC of 23 December 1991 standardising and rationalising reports on the implementation of certain Directives relating to the environment ⁽¹⁾ shall be fully associated with the deliberations.

3. The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

Article 59

Additional measures

1. The Commission may adopt additional measures related to the implementation of this Regulation as follows:

- (a) a method for calculating the financial guarantee or equivalent insurance as set out in Article 6;

- (b) guidelines for the application of Article 12(1)(g);

- (c) further conditions and requirements in relation to pre-consented recovery facilities as referred to in Article 14;

- (d) guidelines on the application of Article 15 in relation to the identification and tracking of waste undergoing substantial changes in the interim recovery or disposal operation;

⁽¹⁾ OJ L 377, 31.12.1991, p. 48. Directive as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

- (e) guidelines for the cooperation of competent authorities with regard to illegal shipments as referred to in Article 24;
- (f) technical and organisational requirements for the practical implementation of electronic data interchange for the submission of documents and information in accordance with Article 26(4);
- (g) further guidance concerning the use of languages referred to in Article 27;
- (h) further clarification of the procedural requirements of Title II as regards their application to exports, imports and transit of waste from, to, and through the Community;
- (i) further guidance concerning undefined legal terms.

2. Such measures shall be decided in accordance with the procedure referred to in Article 18(3) of Directive 2006/12/EC.

3. The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

Article 60

Review

1. By 15 July 2006, the Commission shall complete its review of the relationship between existing sectoral legislation on animal and public health, including shipments of waste covered by Regulation (EC) No 1774/2002, and the provisions of this Regulation. If necessary, this review shall be accompanied by appropriate proposals with a view to achieving an equivalent level of procedures and control regime for the shipment of such waste.

2. Within five years from 12 July 2007, the Commission shall review the implementation of Article 12(1)(c), including its effect on environment protection and the functioning of the internal market. If necessary, this review shall be accompanied by appropriate proposals to amend this provision.

Article 61

Repeals

1. Regulation (EEC) No 259/93 and Decision 94/774/EC are hereby repealed with effect from 12 July 2007.

2. References made to the repealed Regulation (EEC) No 259/93 shall be construed as being made to this Regulation.

3. Decision 1999/412/EC is hereby repealed with effect from 1 January 2008.

Article 62

Transition rules

1. Any shipment that has been notified and for which the competent authority of destination has given acknowledgement

before 12 July 2007 shall be subject to the provisions of Regulation (EEC) No 259/93.

2. Any shipment for which the competent authorities concerned have given their consent pursuant to Regulation (EEC) No 259/93 shall be completed not later than one year from 12 July 2007.

3. Reporting pursuant to Article 41(2) of Regulation (EEC) No 259/93 and Article 51 of this Regulation for the year 2007 shall be based on the questionnaire contained in Decision 1999/412/EC.

Article 63

Transitional arrangements for certain Member States

1. Until 31 December 2010, all shipments to Latvia of waste for recovery listed in Annexes III and IV and shipments of waste for recovery not listed in those Annexes shall be subject to the procedure of prior written notification and consent in accordance with Title II.

By way of derogation from Article 12, the competent authorities shall object to shipments of waste for recovery listed in Annexes III and IV and shipments of waste for recovery not listed in those Annexes destined for a facility benefiting from a temporary derogation from certain provisions of Directive 96/61/EC during the period in which the temporary derogation is applied to the facility of destination.

2. Until 31 December 2012, all shipments to Poland of waste for recovery listed in Annex III shall be subject to the procedure of prior written notification and consent in accordance with Title II.

By way of derogation from Article 12, until 31 December 2007, the competent authorities may raise objections to shipments to Poland for recovery of the following waste listed in Annexes III and IV in conformity with the grounds for objection laid down in Article 11:

B2020 and GE020 (glass waste)

B2070

B2080

B2100

B2120

B3010 and GH013 (solid plastic waste)

B3020 (paper waste)

B3140 (waste pneumatic tyres)	AC080
Y46	AC150
Y47	AC160
A1010 and A1030 (only the indents referring to arsenic and mercury)	AC260
A1060	AD150
A1140	
A2010	With the exception of glass waste, paper waste and waste pneumatic tyres, this period may be extended until no later than 31 December 2012 in accordance with the procedure referred to in Article 18(3) of Directive 2006/12/EC.
A2020	
A2030	By way of derogation from Article 12, until 31 December 2012, the competent authorities may raise objections in conformity with the grounds for objection laid down in Article 11 to shipments to Poland of:
A2040	
A3030	
A3040	(a) the following waste for recovery listed in Annex IV:
A3070	A2050
A3120	A3030
A3130	A3180, except polychlorinated naphthalenes (PCN)
A3160	A3190
A3170	A4110
A3180 (applies only in respect of polychlorinated naphthalenes (PCN))	A4120
A4010	RB020
A4050	and of
A4060	
A4070	(b) waste for recovery not listed in the Annexes.
A4090	By way of derogation from Article 12, competent authorities shall object to shipments of waste for recovery listed in Annexes III and IV and shipments of waste for recovery not listed in those Annexes destined for a facility benefiting from a temporary derogation from certain provisions of Directive 96/61/EC during the period in which the temporary derogation is applied to the facility of destination.
AB030	
AB070	
AB120	
AB130	3. Until 31 December 2011, all shipments to Slovakia of waste for recovery listed in Annexes III and IV and shipments of waste for recovery not listed in those Annexes shall be subject to the procedure of prior written notification and consent in accordance with Title II.
AB150	
AC060	
AC070	By way of derogation from Article 12, the competent authorities shall object to shipments of waste for recovery listed in

Annexes III and IV and shipments of waste for recovery not listed in those Annexes destined for a facility benefiting from a temporary derogation from certain provisions of Directives 94/67/EC ⁽¹⁾ and 96/61/EC, Directive 2000/76/EC of the European Parliament and of the Council of 4 December 2000 on the incineration of waste ⁽²⁾ , and Directive 2001/80/EC of the European Parliament and of the Council of 23 October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants ⁽³⁾ during the period in which the temporary derogation is applied to the facility of destination.	A3160 A3170 A3180 (applies only in respect of polychlorinated naphthalenes (PCN)) A4010 A4050
4. Until 31 December 2014, all shipments to Bulgaria of waste for recovery listed in Annex III shall be subject to the procedure of prior written notification and consent in accordance with Title II.	A4060 A4070
By way of derogation from Article 12, until 31 December 2009, the Bulgarian competent authorities may raise objections to shipments to Bulgaria for recovery of the following waste listed in Annexes III and IV in conformity with the grounds for objection laid down in Article 11:	A4090 AB030
B2070	AB070
B2080	AB120
B2100	AB130
B2120	AB150
Y46	AC060
Y47	AC070
A1010 and A1030 (only the indents referring to arsenic and mercury)	AC080
A1060	AC150
A1140	AC160
A2010	AC260
A2020	AD150
A2030	This period may be extended until no later than 31 December 2012 in accordance with the procedure referred to in Article 18 (3) of Directive 2006/12/EC.
A2040	
A3030	By way of derogation from Article 12, until 31 December 2009, the Bulgarian competent authorities may raise objections in conformity with the grounds for objection laid down in Article 11 to shipments to Bulgaria of:
A3040	
A3070	(a) the following waste for recovery listed in Annex IV:
A3120	A2050
A3130	A3030
	A3180, except polychlorinated naphthalenes (PCN)
	A3190

⁽¹⁾ OJ L 365, 31.12.1994, p. 34.

⁽²⁾ OJ L 332, 28.12.2000, p. 91.

⁽³⁾ OJ L 309, 27.11.2001, p. 1. Directive as amended by the 2003 Act of Accession.

A4110	A3060
A4120	A3070
RB020	A3120
and of	A3130
(b) waste for recovery not listed in those Annexes.	A3140
By way of derogation from Article 12, the Bulgarian competent authorities shall object to shipments of waste for recovery listed in Annexes III and IV and shipments of waste for recovery not listed in those Annexes destined for a facility benefiting from a temporary derogation from certain provisions of Directive 96/61/EC or Directive 2001/80/EC during the period in which the temporary derogation is applied to the facility of destination.	A3150
	A3160
	A3170
5. Until 31 December 2015, all shipments to Romania of waste for recovery listed in Annex III shall be subject to the procedure of prior written notification and consent in accordance with Title II.	A3180 (applies only in respect of polychlorinated naphthalenes (PCN))
	A4010
	A4030
By way of derogation from Article 12, until 31 December 2011, the Romanian competent authorities may raise objections to shipments to Romania for recovery of the following waste listed in Annexes III and IV in conformity with the grounds for objection laid down in Article 11:	A4040
	A4050
	A4080
B2070	A4090
B2100, except waste alumina	A4100
B2120	A4160
B4030	AA060
Y46	AB030
Y47	AB120
A1010 and A1030 (only the indents referring to arsenic, mercury and thallium)	AC060
A1060	AC070
A1140	AC080
A2010	AC150
A2020	AC160
A2030	AC260
A3030	AC270
A3040	AD120
A3050	AD150

This period may be extended until no later than 31 December 2015 in accordance with the procedure referred to in Article 18 (3) of Directive 2006/12/EC.

By way of derogation from Article 12, until 31 December 2011, the Romanian competent authorities may raise objections in conformity with the grounds for objection laid down in Article 11 to shipments to Romania of:

(a) the following waste for recovery listed in Annex IV:

A2050

A3030

A3180, except polychlorinated naphthalenes (PCN)

A3190

A4110

A4120

RB020

and of

(b) waste for recovery not listed in those Annexes.

This period may be extended until no later than 31 December 2015 in accordance with the procedure referred to in Article 18 (3) of Directive 2006/12/EC.

By way of derogation from Article 12, the Romanian competent authorities shall object to shipments of waste for recovery listed in Annexes III and IV and shipments of waste for recovery not listed in those Annexes destined for a facility benefiting from a temporary derogation from certain provisions of Directive 96/61/EC, Directive 2000/76/EC or Directive 2001/80/EC during the period in which the temporary derogation is applied to the facility of destination.

6. When reference is made in this Article to Title II in relation to waste listed in Annex III, Article 3(2), Article 4, second subparagraph, point 5, and Articles 6, 11, 22, 23, 24, 25 and 31 shall not apply.

Article 64

Entry into force and application

1. 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 12 July 2007.

2. Should the date of accession of Bulgaria or Romania be later than the date of application specified in paragraph 1, Article 63 (4) and (5) shall, by way of derogation from paragraph 1 of this Article, apply from the date of accession.

3. Subject to the agreement of the Member States concerned, Article 26(4) may be applied before 12 July 2007.

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

Done at Strasbourg, 14 June 2006.

For the European Parliament
The President
J. BORRELL FONTELLES

For the Council
The President
H. WINKLER

ANNEX IA

Notification document for transboundary movements/shipments of waste

EU

1. Exporter - notifier Registration No: Name: Address: Contact person: Tel.: Fax: E-mail:	3. Notification: Notification concerning A. (i) Individual shipment: <input type="checkbox"/> (ii) Multiple shipments: <input type="checkbox"/> B. (i) Disposal ⁽¹⁾ : <input type="checkbox"/> (ii) Recovery: <input type="checkbox"/> C. Pre-consented recovery facility ⁽²⁻³⁾ Yes <input type="checkbox"/> No <input type="checkbox"/>
2. Importer - consignee Registration No: Name: Address: Contact person: Tel.: Fax: E-mail:	4. Total intended number of shipments: 5. Total intended quantity (kg/litre) ⁽⁴⁾: 6. Intended period of time for shipment(s) ⁽⁴⁾: First departure: Last departure: 7. Packaging type(s) ⁽⁵⁾: Special handling requirements ⁽⁶⁾: Yes <input type="checkbox"/> No <input type="checkbox"/>
8. Intended carrier(s) Registration No: Name ⁽⁷⁾ : Address: Contact person: Tel.: Fax: E-mail: Means of transport ⁽⁸⁾ :	11. Disposal/recovery operation(s) ⁽²⁾ D code/R code ⁽⁵⁾ : Technology employed ⁽⁹⁾ : Reason for export ⁽¹⁻⁶⁾ :
9. Waste generator(s)/producer(s) ^(1, 7, 8) Registration No: Name: Address: Contact person: Tel.: Fax: E-mail: Site and process of generation ⁽⁶⁾ :	12. Designation and composition of the waste ⁽⁶⁾: 13. Physical characteristics ⁽⁵⁾:
10. Disposal facility ⁽²⁾: <input type="checkbox"/> or recovery facility ⁽²⁾: <input type="checkbox"/> Registration No: Name: Address: Contact person: Tel.: Fax: E-mail: Actual site of disposal/recovery:	14. Waste identification (fill in relevant codes) (i) Basel Annex VIII (or IX if applicable): (ii) OECD code (if different from (i)): (iii) EC list of wastes: (iv) National code in country of export: (v) National code in country of import: (vi) Other (specify): (vii) Y-code: (viii) H-code ⁽⁵⁾ : (ix) UN class ⁽⁵⁾ : (x) UN number: (xi) UN shipping name: (xii) Customs code(s) (HS):

15. Countries/States concerned (a), code No of competent authorities where applicable (b), specific points of exit or entry (c)						
State of export/dispatch		State(s) of transit (entry and exit)			State of import/destination	
(a)						
(b)						
(c)						
16. Customs offices of entry and/or exit and/or export (European Community):						
Entry:		Exit:		Export:		
17. Exporter's/notifier's - generator's/producer's⁽¹⁾ declaration:						
I certify that the information is complete and correct to my best knowledge.						18. Number of annexes attached:
I also certify that legally enforceable written contractual obligations have been entered into and that any applicable insurance or other financial guarantee is or shall be in force covering the transboundary movement:						
Exporter's/notifier's name:		Signature		Date		
Generator's/producer's name:		Signature		Date		
FOR USE BY COMPETENT AUTHORITIES						
19. Acknowledgement from the relevant competent authority of countries of import - destination/transit⁽¹⁾ / export - dispatch⁽⁹⁾:				20. Written consent^(1, 8) to the movement provided by the competent authority of (country):		
Country:				Consent given on:		
Notification received on:				Consent valid from:		until:
Acknowledgement sent on:				Specific conditions: No <input type="checkbox"/> If Yes, see block 21 ⁽⁶⁾ <input type="checkbox"/>		
Name of competent authority:				Name of competent authority:		
Stamp and/or signature:				Stamp and/or signature:		
21. Specific conditions on consenting to the movement or reasons for objecting:						

(1) Required by the Basel Convention.

(2) In the case of an R12/R13 or D13-D15 operation, also attach corresponding information on the subsequent R1-R11 or D1-D12 facilit(y)ies when required.

(3) To be completed for movements within the OECD area and only if B(ii) applies.

(4) Attach detailed list if multiple shipments.

(5) See list of abbreviations and codes on the next page.

(6) Attach details if necessary.

(7) Attach list if more than one.

(8) If required by national legislation.

(9) If applicable under the OECD Decision.

List of abbreviations and codes used in the notification document**DISPOSAL OPERATIONS (block 11)**

- D 1 Deposit into or onto land (e.g. landfill, etc.)
- D2 Land treatment (e.g. biodegradation of liquid or sludgy discards in soils, etc.)
- D3 Deep injection (e.g. injection of pumpable discards into wells, salt domes or naturally occurring repositories, etc.)
- D4 Surface impoundment (e.g. placement of liquid or sludge discards into pits, ponds or lagoons, etc.)
- D5 Specially engineered landfill, (e.g. placement into lined discrete cells which are capped and isolated from one another and the environment, etc.)
- D6 Release into a water body except seas/oceans
- D7 Release into seas/oceans including sea-bed insertion
- D8 Biological treatment not specified elsewhere in this list which results in final compounds or mixtures which are discarded by means of any of the operations in this list
- D9 Physico-chemical treatment not specified elsewhere in this list which results in final compounds or mixtures which are discarded by means of any of the operations in this list (e.g. evaporation, drying, calcination, etc.)
- D10 Incineration on land
- D11 Incineration at sea
- D12 Permanent storage (e.g. emplacement of containers in a mine, etc.)
- D13 Blending or mixing prior to submission to any of the operations in this list
- D14 Repackaging prior to submission to any of the operations in this list
- D15 Storage pending any of the operations numbered in this list

RECOVERY OPERATIONS (block 11)

- R1 Use as a fuel (other than in direct incineration) or other means to generate energy/use principally as a fuel or other means to generate energy
- R2 Solvent reclamation/regeneration
- R3 Recycling/reclamation of organic substances which are not used as solvents
- R4 Recycling/reclamation of metals and metal compounds
- R5 Recycling/reclamation of other inorganic materials
- R6 Regeneration of acids or bases
- R7 Recovery of components used for pollution abatement
- R8 Recovery of components from catalysts
- R9 Used oil re-refining or other reuses of previously used oil
- R10 Land treatment resulting in benefit to agriculture or ecological improvement
- R11 Uses of residual materials obtained from any of the operations numbered R1 to R10
- R12 Exchange of wastes for submission to any of the operations numbered R1 to R11
- R13 Accumulation of material intended for any operation in this list.

PACKAGING TYPES (block 7)	H CODE AND UN CLASS (block 14)		
1. Drum 2. Wooden barrel 3. Jerrican 4. Box 5. Bag 6. Composite packaging 7. Pressure receptacle 8. Bulk 9. Other (specify)	UN Class	H code	Characteristics
	1	H1	Explosive
	3	H3	Flammable liquids
	4.1	H4.1	Flammable solids
	4.2	H4.2	Substances or wastes liable to spontaneous combustion
	4.3	H4.3	Substances or wastes which, in contact with water, emit flammable gases
	5.1	H5.1	Oxidising
	5.2	H5.2	Organic peroxides
	6.1	H6.1	Poisonous (acute)
	6.2	H6.2	Infectious substances
	8	H8	Corrosives
	9	H10	Liberation of toxic gases in contact with air or water
	9	H11	Toxic (delayed or chronic)
	9	H12	Ecotoxic
	9	H13	Capable, by any means, after disposal of yielding another material, e.g. leachate, which possesses any of the characteristics listed above
MEANS OF TRANSPORT (block 8) R = Road T = Train/rail S = Sea A = Air W = Inland waterways			
PHYSICAL CHARACTERISTICS (block 13) 1. Powdery/powder 2. Solid 3. Viscous/paste 4. Sludgy 5. Liquid 6. Gaseous 7. Other (specify)			

Further information, in particular related to waste identification (block 14), i.e. on Basel Annexes VIII and IX codes, OECD codes and Y codes, can be found in a Guidance/Instruction Manual available from the OECD and the Secretariat of the Basel Convention.

ANNEX IB

Movement document for transboundary movements/shipments of EU waste

EU

1. Corresponding to notification No:		2. Serial/total number of shipments:	
3. Exporter - notifier Registration No: Name: Address: Contact person: Tel.: Fax: E-mail:		4. Importer - consignee Registration No: Name: Address: Contact person: Tel.: Fax: E-mail:	
5. Actual quantity: kg: litre:		6. Actual date of shipment:	
7. Packaging type(s) (1): Number of packages: Special handling requirements: (2) Yes <input type="checkbox"/> No <input type="checkbox"/>			
8 (a) 1st carrier (3): Registration No: Name: Address: Tel.: Fax: E-mail:		8 b) 2nd carrier: Registration No: Name: Address: Tel.: Fax: E-mail:	
		8 c) Last carrier: Registration No: Name: Address: Tel.: Fax: E-mail:	
----- To be completed by carrier's representative -----			
Means of transport (1): Date of transfer: Signature:		Means of transport (1): Date of transfer: Signature:	
9. Waste generator(s)/producer(s) (4;5;6): Registration No: Name: Address: Contact person: Tel.: Fax: E-mail: Site of generation (2):		12. Designation and composition of the waste (2):	
10. Disposal facility <input type="checkbox"/> or recovery facility <input type="checkbox"/> Registration No: Name: Address: Contact person: Tel.: Fax: E-mail: Actual site of disposal/recovery (2)		13. Physical characteristics (1):	
11. Disposal/recovery operation(s) D code/R code (1):		14. Waste identification (fill in relevant codes) (i) Basel Annex VIII (or IX if applicable): (ii) OECD code (if different from (i)): (iii) EC list of wastes: (iv) National code in country of export: (v) National code in country of import: (vi) Other (specify): (vii) Y code: (viii) H code (1): (ix) UN class (1): (x) UN number: (xi) UN shipping name: (xii) Customs code(s) (HS):	

15. Exporter's - notifier's/generator's/producer's (4) declaration:

I certify that the above information is complete and correct to my best knowledge. I also certify that legally enforceable written contractual obligations have been entered into, that any applicable insurance or other financial guarantee is in force covering the transboundary movement and that all necessary consents have been received from the competent authorities of the countries concerned.

Name:

Signature:

Date:

16. For use by any person involved in the transboundary movement in case additional information is required:**TO BE COMPLETED BY DISPOSAL /RECOVERY FACILITY****17. Shipment received at disposal facility**

or recovery facility

Date of reception:

Accepted:

Rejected*:

Quantity received: kg:

litre:

* *immediately contact
competent authorities*

Approximate date of disposal/recovery:

Disposal/recovery operation (1):

Date:

Name:

Signature:

18. I certify that the disposal/recovery of the waste described above has been completed.

Date:

Name:

Signature and stamp:

(1) See list of abbreviations and codes on the next page.

(2) Attach details if necessary.

(3) If more than three carriers, attach information as required in blocks 8 (a,b,c).

(4) Required by the Basel Convention.

(5) Attach list if more than one.

(6) If required by national legislation.

FOR USE BY CUSTOMS OFFICES (if required by national legislation)			
19. COUNTRY OF EXPORT - DISPATCH OR CUSTOMS OFFICE OF EXIT		20. COUNTRY OF IMPORT - DESTINATION OR CUSTOMS OFFICE OF ENTRY	
The waste described in this movement document left the country on:		The waste described in this movement document entered the country on:	
Signature:		Signature:	
Stamp:		Stamp:	
21. STAMPS OF CUSTOMS OFFICES OF TRANSIT COUNTRIES			
Name of country:		Name of country:	
Entry:	Exit:	Entry:	Exit:
Name of country:		Name of country:	
Entry:	Exit:	Entry:	Exit:

List of abbreviations and codes used in the movement document

DISPOSAL OPERATIONS (block 11)	Recovery operations (block 11)
D 1 Deposit into or onto land (e.g. landfill, etc.)	R 1 Use as a fuel (other than in direct incineration) or other means to generate energy/Use principally as a fuel or other means to generate energy
D 2 Land treatment (e.g. biodegradation of liquid or sludgy discards in soils, etc.)	R 2 Solvent reclamation/regeneration
D 3 Deep injection (e.g. injection of pumpable discards into wells, salt domes or naturally occurring repositories, etc.)	R 3 Recycling/reclamation of organic substances which are not used as solvents
D 4 Surface impoundment (e.g. placement of liquid or sludge discards into pits, ponds or lagoons, etc.)	R 4 Recycling/reclamation of metals and metal compounds
D 5 Specially engineered landfill (e.g. placement into lined discrete cells which are capped and isolated from one another and the environment)	R 5 Recycling/reclamation of other inorganic materials
D 6 Release into a water body except seas/oceans	R 6 Regeneration of acids or bases
D 7 Release into seas/oceans including sea-bed insertion	R 7 Recovery of components used for pollution abatement
D 8 Biological treatment not specified elsewhere in this list which results in final compounds or mixtures which are discarded by means of any of the operations in this list	R 8 Recovery of components from catalysts
D 9 Physico-chemical treatment not specified elsewhere in this list which results in final compounds or mixtures which are discarded by means of any of the operations in this list (e.g. evaporation, drying, calcination)	R 9 Used oil re-refining or other reuses of previously used oil
D 10 Incineration on land	R 10 Land treatment resulting in benefit to agriculture or ecological improvement
D 11 Incineration at sea	R 11 Uses of residual materials obtained from any of the operations numbered R 1 to R 10
D 12 Permanent storage (e.g. emplacement of containers in a mine, etc.)	R 12 Exchange of wastes for submission to any of the operations numbered R 1 to R 11
D 13 Blending or mixing prior to submission to any of the operations in this list	R 13 Accumulation of material intended for any operation in this list
D 14 Repackaging prior to submission to any of the operations in this list	
D 15 Storage pending any of the operations in this list	

PACKAGING TYPES (block 7)	H CODE AND UN CLASS (block 14)		
1. Drum 2. Wooden barrel 3. Jerrican 4. Box 5. Bag 6. Composite packaging 7. Pressure receptacle 8. Bulk 9. Other (specify)	UN Class	H code	Characteristics
	1	H1	Explosive
	3	H3	Flammable liquids
	4.1	H4.1	Flammable solids
	4.2	H4.2	Substances or wastes liable to spontaneous combustion
	4.3	H4.3	Substances or wastes which, in contact with water, emit flammable gases
	5.1	H5.1	Oxidising
	5.2	H5.2	Organic peroxides
	6.1	H6.1	Poisonous (acute)
	6.2	H6.2	Infectious substances
	8	H8	Corrosives
	9	H10	Liberation of toxic gases in contact with air or water
	9	H11	Toxic (delayed or chronic)
	9	H12	Ecotoxic
	9	H13	Capable, by any means, after disposal of yielding another material, e.g. leachate, which possesses any of the characteristics listed above
MEANS OF TRANSPORT (block 8) R = road T = train/rail S = sea A = air W = inland waterways			
PHYSICAL CHARACTERISTICS (block 13) 1. Powdery/powder 2. Solid 3. Viscous/paste 4. Sludgy 5. Liquid 6. Gaseous 7. Other (specify)			

Further information, in particular related to waste identification (block 14), i.e. on Basel Annexes VIII and IX codes, OECD codes and Y codes, can be found in a Guidance/Instruction Manual available from the OECD and the Secretariat of the Basel Convention.

ANNEX IC

SPECIFIC INSTRUCTIONS FOR COMPLETING THE NOTIFICATION AND MOVEMENT DOCUMENTS

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ANNEX II

INFORMATION AND DOCUMENTATION RELATED TO NOTIFICATION

Part 1: Information to be supplied on, or annexed to, the notification document:

1. Serial number or other accepted identifier of the notification document and intended total number of shipments.
2. Notifier's name, address, telephone number, fax number, e-mail address, registration number and contact person.
3. If the notifier is not the producer: producer's (producers') name, address, telephone number, fax number, e-mail address and contact person.
4. Dealer's (dealers') or broker's (brokers') name, address, telephone number, fax number, e-mail address and contact person, where the notifier has authorised him in accordance with point 15 of Article 2.
5. Recovery or disposal facility's name, address, telephone number, fax number, e-mail address, registration number, contact person, technologies employed and possible status as pre-consented in accordance with Article 14.

If the waste is destined for an interim recovery or disposal operation, similar information regarding all facilities where subsequent interim and non-interim recovery or disposal operations are envisaged shall be indicated.

If the recovery or disposal facility is listed in Annex I, Category 5 of Directive 96/61/EC, evidence (e.g. a declaration certifying its existence) of a valid permit issued in accordance with Articles 4 and 5 of that Directive shall be provided.

6. Consignee's name, address, telephone number, fax number, e-mail address, registration number and contact person.
7. Intended carrier's (carriers') and/or their agent's (agents') name, address, telephone number, fax number, e-mail address, registration number and contact person.
8. Country of dispatch and relevant competent authority.
9. Countries of transit and relevant competent authorities.
10. Country of destination and relevant competent authority.
11. Single notification or general notification. If general notification, period of validity requested.
12. Date(s) envisaged for start of the shipment(s).
13. Means of transport envisaged.
14. Intended routing (point of exit from and entry into each country concerned, including customs offices of entry into and/or exit from and/or export from the Community) and intended route (route between points of exit and entry), including possible alternatives, also in case of unforeseen circumstances.
15. Evidence of registration of the carrier(s) regarding waste transports (e.g. a declaration certifying its existence).
16. Designation of the waste on the appropriate list, the source(s), description, composition and any hazardous characteristics. In the case of waste from various sources, also a detailed inventory of the waste.
17. Estimated maximum and minimum quantities.
18. Type of packaging envisaged.

19. Specification of the recovery or disposal operation(s) as referred to in Annexes II A and II B to Directive 2006/12/EC.
20. If the waste is destined for recovery:
 - (a) the planned method of disposal for the non-recoverable fraction after recovery;
 - (b) the amount of recovered material in relation to non-recoverable waste;
 - (c) the estimated value of the recovered material;
 - (d) the cost of recovery and the cost of disposal of the non-recoverable fraction.
21. Evidence of insurance against liability for damage to third parties (e.g. a declaration certifying its existence).
22. Evidence of a contract (or a declaration certifying its existence) between the notifier and consignee for the recovery or disposal of the waste that has been concluded and is effective at the time of the notification, as required in the second subparagraph, point 4 of Article 4 and in Article 5.
23. A copy of the contract or evidence of the contract (or a declaration certifying its existence) between the producer, new producer or collector and the broker or dealer, in the event that the broker or dealer acts as notifier.
24. Evidence of a financial guarantee or equivalent insurance (or a declaration certifying its existence if the competent authority so allows) that has been established and is effective at the time of the notification or, if the competent authority which approves the financial guarantee or equivalent insurance so allows, at the latest when the shipment starts, as required in the second subparagraph, point 5 of Article 4 and in Article 6.
25. Certification by the notifier that the information is complete and correct to the best of his/her knowledge.
26. When the notifier is not the producer in accordance with point 15(a)(i) of Article 2, the notifier shall ensure that the producer or one of the persons indicated in point 15(a)(ii) or (iii) of Article 2, where practicable, also signs the notification document provided for in Annex IA.

Part 2: Information to be supplied on, or annexed to, the movement document:

Supply all information listed in Part 1, updated in accordance with the points set out below, and the other additional information specified:

1. Serial and total number of shipments.
2. Date shipment started.
3. Means of transport.
4. Carrier's (carriers') name, address, telephone number, fax number and e-mail address.
5. Routing (point of exit from and entry into each country concerned, including customs offices of entry into and/or exit from and/or export from the Community) and route (route between points of exit and entry), including possible alternatives, also in case of unforeseen circumstances.
6. Quantities.
7. Type of packaging.
8. Any special precautions to be taken by the carrier(s).
9. Declaration by the notifier that all necessary consents have been received from the competent authorities of the countries concerned. This declaration must be signed by the notifier.
10. Appropriate signatures for each custody transfer.

Part 3: Additional information and documentation that may be requested by the competent authorities:

1. The type and duration of the authorisation pursuant to which the recovery or disposal facility operates.
 2. Copy of the permit issued in accordance with Articles 4 and 5 of Directive 96/61/EC.
 3. Information concerning the measures to be taken to ensure transport safety.
 4. The transport distance(s) between the notifier and the facility, including possible alternative routes, also in case of unforeseen circumstances and, in the event of intermodal transport, the place where the transfer will take place.
 5. Information about costs of transport between the notifier and the facility.
 6. Copy of the registration of the carrier(s) regarding the waste transport.
 7. Chemical analysis of the composition of the waste.
 8. Description of the production process of the waste.
 9. Description of the treatment process of the facility which receives the waste.
 10. The financial guarantee or equivalent insurance or a copy thereof.
 11. Information concerning the calculation of the financial guarantee or equivalent insurance as required in the second subparagraph, point 5 of Article 4 and in Article 6.
 12. Copy of the contracts referred to in Part 1, points 22 and 23.
 13. Copy of the policy of insurance against liability for damage to third parties.
 14. Any other information which is pertinent to the assessment of the notification in accordance with this Regulation and national legislation.
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ANNEX III

LIST OF WASTES SUBJECT TO THE GENERAL INFORMATION REQUIREMENTS LAID DOWN IN ARTICLE 18

('GREEN' LISTED WASTE) ⁽¹⁾

Regardless of whether or not wastes are included on this list, they may not be subject to the general information requirements laid down in Article 18 if they are contaminated by other materials to an extent which

- (a) increases the risks associated with the wastes sufficiently to render them appropriate for submission to the procedure of prior written notification and consent, when taking into account the hazardous characteristics listed in Annex III to Directive 91/689/EEC; or
- (b) prevents the recovery of the wastes in an environmentally sound manner.

Part I

The following wastes will be subject to the general information requirements laid down in Article 18:

Wastes listed in Annex IX to the Basel Convention ⁽²⁾.

For the purposes of this Regulation:

- (a) any reference to list A in Annex IX to the Basel Convention shall be understood as a reference to Annex IV to this Regulation;
- (b) in Basel entry B1020, the term 'bulk finished form' includes all metallic non-dispersible ⁽³⁾ forms of the scrap listed therein.
- (c) the part of Basel entry B1100 that refers to 'Slags from copper processing' etc., does not apply and (OECD) entry GB040 in Part II applies instead;
- (d) Basel entry B1110 does not apply and (OECD) entries GC010 and GC020 in Part II apply instead.
- (e) Basel entry B2050 does not apply and (OECD) entry GG040 in Part II applies instead;
- (f) the reference in Basel entry B3010 to fluorinated polymer wastes shall be deemed to include polymers and co-polymers of fluorinated ethylene (PTFE).

Part II

The following wastes will also be subject to the general information requirements laid down in Article 18:

Metal bearing wastes arising from melting, smelting and refining of metals

GB040	7112	Slags from precious metals and copper processing for further refining
	262030	
	262090	

⁽¹⁾ This list originates from the OECD Decision, Appendix 3.

⁽²⁾ Annex IX to the Basel Convention is listed in this Regulation in Annex V, Part I, List B.

⁽³⁾ 'Non-dispersible' does not include any wastes in the form of powder, sludge, dust or solid items containing encased hazardous waste liquids.

Other wastes containing metals

GC010		Electrical assemblies consisting only of metals or alloys
GC020		Electronic scrap (e.g. printed circuit boards, electronic components, wire, etc.) and reclaimed electronic components suitable for base and precious metal recovery
GC030	ex 890800	Vessels and other floating structures for breaking up, properly emptied of any cargo and other materials arising from the operation of the vessel which may have been classified as a dangerous substance or waste
GC050		Spent fluid catalytic cracking (FCC) catalysts (e.g. aluminium oxide, zeolites)

Glass waste in non-dispersible form

GE020	ex 7001	Glass fibre waste
	ex 701939	

Ceramic wastes in non-dispersible form

GF010		Ceramic wastes which have been fired after shaping, including ceramic vessels (before and/or after use)
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Other wastes containing principally inorganic constituents, which may contain metals and organic materials

GG030	ex 2621	Bottom ash and slag tap from coal fired power plants
GG040	ex 2621	Coal fired power plants fly ash

Solid plastic wastes

GH013	391530	Polymers of vinyl chloride
	ex 390410—40	

Wastes arising from tanning and fellmongery operations and leather use

GN010	ex 050200	Waste of pigs', hogs' or boars' bristles and hair or of badger hair and other brush making hair
GN020	ex 050300	Horsehair waste, whether or not put up as a layer with or without supporting material
GN030	ex 050590	Waste of skins and other parts of birds, with their feathers or down, of feathers and parts of feathers (whether or not with trimmed edges) and down, not further worked than cleaned, disinfected or treated for preservation

ANNEX IIIA

MIXTURES OF TWO OR MORE WASTES LISTED IN ANNEX III AND NOT CLASSIFIED UNDER ONE SINGLE ENTRY AS REFERRED TO IN ARTICLE 3(2)

ANNEX IIIB

ADDITIONAL GREEN LISTED WASTE AWAITING INCLUSION IN THE RELEVANT ANNEXES TO THE BASEL CONVENTION OR THE OECD DECISION AS REFERRED TO IN ARTICLE 58(1)(B)

ANNEX IV

**LIST OF WASTES SUBJECT TO THE PROCEDURE OF PRIOR WRITTEN NOTIFICATION AND CONSENT
(‘AMBER’ LISTED WASTE) ⁽¹⁾**

Part I

The following wastes will be subject to the procedure of prior written notification and consent:

Wastes listed in Annexes II and VIII to the Basel Convention ⁽²⁾.

For the purposes of this Regulation:

- (a) Any reference to list B in Annex VIII to the Basel Convention shall be understood as a reference to Annex III to this Regulation.
- (b) In Basel entry A1010, the term ‘excluding such wastes specifically listed on List B (Annex IX)’ is a reference both to Basel entry B1020 and the note on B1020 in Annex III to this Regulation, Part I(b).
- (c) Basel entries A1180 and A2060 do not apply and OECD entries GC010, GC020 and GG040 in Annex III, Part II apply instead when appropriate.
- (d) Basel entry A4050 includes spent potlinings from aluminium smelting because they contain Y33 inorganic cyanides. If the cyanides have been destroyed, spent potlinings are assigned to Part II entry AB120 because they contain Y32, inorganic fluorine compounds excluding calcium fluoride.

Part II

The following wastes will also be subject to the procedure of prior written notification and consent:

Metal bearing wastes

AA010	261900	Dross, scalings and other wastes from the manufacture of iron and steel ⁽³⁾
AA060	262050	Vanadium ashes and residues ⁽³⁾
AA190	810420 ex 810430	Magnesium waste and scrap that is flammable, pyrophoric or emits, upon contact with water, flammable gases in dangerous quantities

Wastes containing principally inorganic constituents, which may contain metals and organic materials

AB030		Wastes from non-cyanide based systems which arise from surface treatment of metals
AB070		Sands used in foundry operations
AB120	ex 281290 ex 3824	Inorganic halide compounds, not elsewhere specified or included
AB130		Used blasting grit
AB150	ex 382490	Unrefined calcium sulphite and calcium sulphate from flue gas desulphurisation (FGD)

Wastes containing principally organic constituents, which may contain metals and inorganic materials

AC060	ex 381900	Hydraulic fluids
AC070	ex 381900	Brake fluids
AC080	ex 382000	Antifreeze fluids
AC150		Chlorofluorocarbons
AC160		Halons

⁽¹⁾ This list originates from the OECD Decision, Appendix 4.

⁽²⁾ Annex VIII to the Basel Convention is listed in this Regulation in Annex V, Part 1, List A. Annex II to the Basel Convention contains the following entries: Y46 Waste collected from households unless appropriately classified under a single entry in Annex III. Y47 Residues arising from the incineration of household wastes.

⁽³⁾ This listing includes wastes in the form of ash, residue, slag, dross, skimming, scaling, dust, powder, sludge and cake, unless a material is expressly listed elsewhere.

AC170	ex 440310	Treated cork and wood wastes
AC250		Surface active agents (surfactants)
AC260	ex 3101	Liquid pig manure; faeces
AC270		Sewage sludge

Wastes which may contain either inorganic or organic constituents

AD090	ex 382490	Wastes from production, formulation and use of reprographic and photographic chemicals and materials not elsewhere specified or included
AD100		Wastes from non-cyanide based systems which arise from surface treatment of plastics
AD120	ex 391400 ex 3915	Ion exchange resins
AD150		Naturally occurring organic material used as a filter medium (such as bio-filters)

Wastes containing principally inorganic constituents, which may contain metals and organic materials

RB020	ex 6815	Ceramic based fibres of physico-chemical characteristics similar to those of asbestos
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ANNEX IV A

**WASTE LISTED IN ANNEX III BUT SUBJECT TO THE PROCEDURE OF PRIOR WRITTEN NOTIFICATION AND
CONSENT (ARTICLE 3(3))**

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ANNEX V

WASTE SUBJECT TO THE EXPORT PROHIBITION IN ARTICLE 36

Introductory notes

1. This Annex applies without prejudice to Directives 91/689/EEC and 2006/12/EC.
2. This Annex consists of three parts, Parts 2 and 3 of which apply only when Part 1 is not applicable. Consequently, to determine whether a specific waste is listed in this Annex, an initial check must be made to ascertain whether the waste is listed in Part 1 of this Annex, and, if it does not, whether it is listed in Part 2, and, if it does not, whether it is listed in Part 3.

Part 1 is divided into two sub-sections: List A lists wastes which are classified as hazardous by Article 1(1)(a) of the Basel Convention, and therefore covered by the export prohibition, and List B lists wastes which are not covered by Article 1(1)(a) of the Basel Convention, and therefore not covered by the export prohibition.

Thus, if a waste is listed in Part 1, a check must be made to ascertain whether it is listed in List A or in List B. Only if a waste is not listed in either List A or List B of Part 1, must a check be made to ascertain whether it is listed either among the hazardous waste listed in Part 2 (i.e. types of waste marked with an asterisk) or in Part 3, and if this is the case, it is covered by the export prohibition.

3. Wastes listed in List B of Part 1 or which are among the non-hazardous waste listed in Part 2 (i.e. wastes not marked with an asterisk) are covered by the export prohibition if they are contaminated by other materials to an extent which
 - (a) increases the risks associated with the waste sufficiently to render it appropriate for submission to the procedure of prior written notification and consent, when taking into account the hazardous characteristics listed in Annex III to Directive 91/689/EEC; or
 - (b) prevents the recovery of the waste in an environmentally sound manner.

Part 1 ⁽¹⁾*List A (Annex VIII to the Basel Convention)*

A1 METAL AND METAL BEARING WASTES

A1010 Metal wastes and waste consisting of alloys of any of the following:

- Antimony
- Arsenic
- Beryllium
- Cadmium
- Lead
- Mercury
- Selenium
- Tellurium
- Thallium

but excluding such wastes specifically listed on list B.

⁽¹⁾ References in Lists A and B to Annexes I, III and IV refer to Annexes of the Basel Convention.

- A1020 Waste having as constituents or contaminants, excluding metal waste in massive form, any of the following:
- Antimony; antimony compounds
 - Beryllium; beryllium compounds
 - Cadmium; cadmium compounds
 - Lead; lead compounds
 - Selenium; selenium compounds
 - Tellurium; tellurium compounds
- A1030 Wastes having as constituents or contaminants any of the following:
- Arsenic; arsenic compounds
 - Mercury; mercury compounds
 - Thallium; thallium compounds
- A1040 Wastes having as constituents any of the following:
- Metal carbonyls
 - Hexavalent chromium compounds
- A1050 Galvanic sludges
- A1060 Waste liquors from the pickling of metals
- A1070 Leaching residues from zinc processing, dust and sludges such as jarosite, hematite, etc.
- A1080 Waste zinc residues not included on list B, containing lead and cadmium in concentrations sufficient to exhibit Annex III characteristics
- A1090 Ashes from the incineration of insulated copper wire
- A1100 Dusts and residues from gas cleaning systems of copper smelters
- A1110 Spent electrolytic solutions from copper electrorefining and electrowinning operations
- A1120 Waste sludges, excluding anode slimes, from electrolyte purification systems in copper electrorefining and electrowinning operations
- A1130 Spent etching solutions containing dissolved copper
- A1140 Waste cupric chloride and copper cyanide catalysts
- A1150 Precious metal ash from incineration of printed circuit boards not included on list B ⁽¹⁾
- A1160 Waste lead-acid batteries, whole or crushed
- A1170 Unsorted waste batteries excluding mixtures of only list B batteries. Waste batteries not specified on list B containing Annex I constituents to an extent to render them hazardous

⁽¹⁾ Note that mirror entry on list B (B1160) does not specify exceptions.

- A1180 Waste electrical and electronic assemblies or scrap ⁽¹⁾ containing components such as accumulators and other batteries included on list A, mercury-switches, glass from cathode-ray tubes and other activated glass and PCB-capacitors, or contaminated with Annex I constituents (e.g. cadmium, mercury, lead, polychlorinated biphenyl) to an extent that they possess any of the characteristics contained in Annex III (note the related entry on list B, B1110) ⁽²⁾
- A1190 Waste metal cables coated or insulated with plastics containing or contaminated with coal tar, PCB ⁽³⁾, lead, cadmium, other organohalogen compounds or other Annex I constituents, to the extent that they exhibit Annex III characteristics
- A2 WASTES CONTAINING PRINCIPALLY INORGANIC CONSTITUENTS, WHICH MAY CONTAIN METALS AND ORGANIC MATERIALS
- A2010 Glass waste from cathode-ray tubes and other activated glasses
- A2020 Waste inorganic fluorine compounds in the form of liquids or sludges but excluding such wastes specified on list B
- A2030 Waste catalysts but excluding such wastes specified on list B
- A2040 Waste gypsum arising from chemical industry processes, when containing Annex I constituents to the extent that it exhibits an Annex III hazardous characteristic (note the related entry on list B, B2080)
- A2050 Waste asbestos (dusts and fibres)
- A2060 Coal-fired power plant fly-ash containing Annex I substances in concentrations sufficient to exhibit Annex III characteristics (note the related entry on list B, B2050)
- A3 WASTES CONTAINING PRINCIPALLY ORGANIC CONSTITUENTS, WHICH MAY CONTAIN METALS AND INORGANIC MATERIALS
- A3010 Waste from the production or processing of petroleum coke and bitumen
- A3020 Waste mineral oils unfit for their originally intended use
- A3030 Wastes that contain, consist of or are contaminated with leaded anti-knock compound sludges
- A3040 Waste thermal (heat transfer) fluids
- A3050 Wastes from production, formulation and use of resins, latex, plasticisers, glues/adhesives excluding such wastes specified on list B (note the related entry on list B, B4020)
- A3060 Waste nitrocellulose
- A3070 Waste phenols, phenol compounds including chlorophenol in the form of liquids or sludges
- A3080 Waste ethers not including those specified on list B
- A3090 Waste leather dust, ash, sludges and flours when containing hexavalent chromium compounds or biocides (note the related entry on list B, B3100)
- A3100 Waste paring and other waste of leather or of composition leather not suitable for the manufacture of leather articles containing hexavalent chromium compounds or biocides (note the related entry on list B, B3090)

⁽¹⁾ This entry does not include scrap assemblies from electric power generation.

⁽²⁾ PCBs are at a concentration level of 50 mg/kg or more.

⁽³⁾ PCBs at a concentration level of 50mg/kg or more.

- A3110 Fellmongery wastes containing hexavalent chromium compounds or biocides or infectious substances (note the related entry on list B, B3110)
- A3120 Fluff — light fraction from shredding
- A3130 Waste organic phosphorous compounds
- A3140 Waste non-halogenated organic solvents but excluding such wastes specified on list B
- A3150 Waste halogenated organic solvents
- A3160 Waste halogenated or unhalogenated non-aqueous distillation residues arising from organic solvent recovery operations
- A3170 Wastes arising from the production of aliphatic halogenated hydrocarbons (such as chloromethane, dichloroethane, vinyl chloride, vinylidene chloride, allyl chloride and epichlorhydrin)
- A3180 Wastes, substances and articles containing, consisting of or contaminated with polychlorinated biphenyl (PCB), polychlorinated terphenyl (PCT), polychlorinated naphthalene (PCN) or polybrominated biphenyl (PBB), or any other polybrominated analogues of these compounds, at a concentration level of 50 mg/kg or more ⁽¹⁾
- A3190 Waste tarry residues (excluding asphalt cements) arising from refining, distillation and any pyrolytic treatment of organic materials
- A3200 Bituminous material (asphalt waste) from road construction and maintenance, containing tar (note the related entry on list B B2130)
- A4 WASTES WHICH MAY CONTAIN EITHER INORGANIC OR ORGANIC CONSTITUENTS
- A4010 Wastes from the production, preparation and use of pharmaceutical products but excluding such wastes specified on list B
- A4020 Clinical and related wastes; that is wastes arising from medical, nursing, dental, veterinary, or similar practices, and wastes generated in hospitals or other facilities during the investigation or treatment of patients, or research projects
- A4030 Wastes from the production, formulation and use of biocides and phytopharmaceuticals, including waste pesticides and herbicides which are off-specification, out-dated ⁽²⁾, or unfit for their originally intended use
- A4040 Wastes from the manufacture, formulation and use of wood-preserving chemicals ⁽³⁾
- A4050 Wastes that contain, consist of or are contaminated with any of the following:
- Inorganic cyanides, excepting precious-metal-bearing residues in solid form containing traces of inorganic cyanides
 - Organic cyanides
- A4060 Waste oils/water, hydrocarbons/water mixtures, emulsions
- A4070 Wastes from the production, formulation and use of inks, dyes, pigments, paints, lacquers, varnish excluding any such waste specified on list B (note the related entry on list B, B4010)
- A4080 Wastes of an explosive nature (but excluding such wastes specified on list B)
- A4090 Waste acidic or basic solutions, other than those specified in the corresponding entry on list B (note the related entry on list B, B2120)

⁽¹⁾ The 50 mg/kg level is considered to be an internationally practical level for all wastes. However, many individual countries have established lower regulatory levels (e.g. 20 mg/kg) for specific wastes.

⁽²⁾ 'Out-dated' means unused within the period recommended by the manufacturer.

⁽³⁾ This entry does not include wood treated with wood-preserving chemicals.

- A4100 Wastes from industrial pollution control devices for cleaning of industrial off-gases but excluding such wastes specified on list B
- A4110 Wastes that contain, consist of or are contaminated with any of the following:
- any congener of polychlorinated dibenzo-furan
 - any congener of polychlorinated dibenzo-dioxin
- A4120 Wastes that contain, consist of or are contaminated with peroxides
- A4130 Waste packages and containers containing Annex I substances in concentrations sufficient to exhibit Annex III hazard characteristics
- A4140 Waste consisting of or containing off-specification or out-dated ⁽¹⁾ chemicals corresponding to Annex I categories and exhibiting Annex III hazard characteristics
- A4150 Waste chemical substances arising from research and development or teaching activities which are not identified and/or are new and whose effects on human health and/or the environment are not known
- A4160 Spent activated carbon not included on list B (note the related entry on list B, B2060)

List B (Annex IX to the Basel Convention)

B1 METAL AND METAL BEARING WASTES

- B1010 Metal and metal-alloy wastes in metallic, non-dispersible form:
- Precious metals (gold, silver, the platinum group, but not mercury)
 - Iron and steel scrap
 - Copper scrap
 - Nickel scrap
 - Aluminium scrap
 - Zinc scrap
 - Tin scrap
 - Tungsten scrap
 - Molybdenum scrap
 - Tantalum scrap
 - Magnesium scrap
 - Cobalt scrap
 - Bismuth scrap
 - Titanium scrap
 - Zirconium scrap
 - Manganese scrap
 - Germanium scrap
 - Vanadium scrap

⁽¹⁾ 'Out-dated' means unused within the period recommended by the manufacturer.

- Scrap of Hafnium, Indium, Niobium, Rhenium and Gallium
 - Thorium scrap
 - Rare earths scrap
 - Chromium scrap
- B1020 Clean, uncontaminated metal scrap, including alloys, in bulk finished form (sheet, plate, beams, rods, etc.):
- Antimony scrap
 - Beryllium scrap
 - Cadmium scrap
 - Lead scrap (but excluding lead-acid batteries)
 - Selenium scrap
 - Tellurium scrap
- B1030 Refractory metals containing residues
- B1031 Molybdenum, tungsten, titanium, tantalum, niobium and rhenium metal and metal alloy wastes in metallic dispersible form (metal powder), excluding such wastes as specified in list A under entry A1050, Galvanic sludges.
- B1040 Scrap assemblies from electrical power generation not contaminated with lubricating oil, PCB or PCT to an extent to render them hazardous
- B1050 Mixed non-ferrous metal, heavy fraction scrap, not containing Annex I materials in concentrations sufficient to exhibit Annex III characteristics ⁽¹⁾
- B1060 Waste Selenium and Tellurium in metallic elemental form including powder
- B1070 Waste of copper and copper alloys in dispersible form, unless they contain Annex I constituents to an extent that they exhibit Annex III characteristics
- B1080 Zinc ash and residues including zinc alloys residues in dispersible form unless containing Annex I constituents in concentration such as to exhibit Annex III characteristics or exhibiting hazard characteristic H4.3 ⁽²⁾
- B1090 Waste batteries conforming to a specification, excluding those made with lead, cadmium or mercury
- B1100 Metal-bearing wastes arising from melting, smelting and refining of metals:
- Hard zinc spelter
 - Zinc-containing drosses:
 - Galvanising slab zinc top dross (>90 % Zn)
 - Galvanising slab zinc bottom dross (>92 % Zn)
 - Zinc die casting dross (>85 % Zn)
 - Hot dip galvanisers slab zinc dross (batch) (>92 % Zn)
 - Zinc skimmings
 - Aluminium skimmings (or skims) excluding salt slag

⁽¹⁾ Note that even where low level contamination with Annex I materials initially exists, subsequent processes, including recycling processes, may result in separated fractions containing significantly enhanced concentrations of those Annex I materials.

⁽²⁾ The status of zinc ash is currently under review and there is a recommendation with United Nations Conference on Trade and Development (UNCTAD) that zinc ashes should not be dangerous goods.

- Slags from copper processing for further processing or refining not containing arsenic, lead or cadmium to an extent that they exhibit Annex III hazard characteristics
 - Wastes of refractory linings, including crucibles, originating from copper smelting
 - Slags from precious metals processing for further refining
 - Tantalum bearing tin slags with less than 0,5 % tin
- B1110 Electrical and electronic assemblies:
- Electronic assemblies consisting only of metals or alloys
 - Waste electrical and electronic assemblies or scrap ⁽¹⁾(including printed circuit boards) not containing components such as accumulators and other batteries included on list A, mercury-switches, glass from cathode-ray tubes and other activated glass and PCB-capacitors, or not contaminated with Annex I constituents (e.g. cadmium, mercury, lead, polychlorinated biphenyl) or from which these have been removed, to an extent that they do not possess any of the characteristics contained in Annex III (note the related entry on list A, A1180)
 - Electrical and electronic assemblies (including printed circuit boards, electronic components and wires) destined for direct re-use ⁽²⁾ and not for recycling or final disposal ⁽³⁾
- B1115 Waste metal cables coated or insulated with plastics, not included in list A1190, excluding those destined for Annex IVA operations or any other disposal operations involving, at any stage, uncontrolled thermal processes, such as open-burning
- B1120 Spent catalysts excluding liquids used as catalysts, containing any of:
- Transition Metals, excluding waste catalysts (spent catalysts, liquid used catalysts or other catalysts) on list A

Scandium	Titanium
Vanadium	Chromium
Manganese	Iron
Cobalt	Nickel
Copper	Zinc
Yttrium	Zirconium
Niobium	Molybdenum
Hafnium	Tantalum
Tungsten	Rhenium
 - Lanthanides (rare earth metals):

Lanthanum	Cerium
Praseodymium	Neodym
Samarium	Europium
Gadolinium	Terbium
Dysprosium	Holmium
Erbium	Thulium
Ytterbium	Lutetium
- B1130 Cleaned spent precious-metal-bearing catalysts
- B1140 Precious-metal-bearing residues in solid form which contain traces of inorganic cyanides
- B1150 Precious metals and alloy wastes (gold, silver, the platinum group, but not mercury) in a dispersible, non-liquid form with appropriate packaging and labelling
- B1160 Precious-metal ash from the incineration of printed circuit boards (note the related entry on list A, A1150)

⁽¹⁾ This entry does not include scrap from electrical power generation.

⁽²⁾ Re-use can include repair, refurbishment or upgrading, but not major reassembly.

⁽³⁾ In some countries these materials destined for direct re-use are not considered wastes.

- B1170 Precious-metal ash from the incineration of photographic film
- B1180 Waste photographic film containing silver halides and metallic silver
- B1190 Waste photographic paper containing silver halides and metallic silver
- B1200 Granulated slag arising from the manufacture of iron and steel
- B1210 Slag arising from the manufacture of iron and steel including slags as a source of TiO₂ and Vanadium
- B1220 Slag from zinc production, chemically stabilised, having a high iron content (above 20 %) and processed according to industrial specifications (e.g. DIN 4301) mainly for construction
- B1230 Mill scaling arising from the manufacture of iron and steel
- B1240 Copper oxide mill-scale
- B1250 Waste end-of-life motor vehicles, containing neither liquids nor other hazardous components
- B2 WASTES CONTAINING PRINCIPALLY INORGANIC CONSTITUENTS, WHICH MAY CONTAIN METALS AND ORGANIC MATERIALS
- B2010 Wastes from mining operations in non-dispersible form:
- Natural graphite waste
 - Slate waste, whether or not roughly trimmed or merely cut, by sawing or otherwise
 - Mica waste
 - Leucite, nepheline and nepheline syenite waste
 - Feldspar waste
 - Fluorspar waste
 - Silica wastes in solid form excluding those used in foundry operations
- B2020 Glass waste in non-dispersible form:
- Cullet and other waste and scrap of glass except for glass from cathode-ray tubes and other activated glasses
- B2030 Ceramic wastes in non-dispersible form:
- Cermet wastes and scrap (metal ceramic composites)
 - Ceramic based fibres not elsewhere specified or included
- B2040 Other wastes containing principally inorganic constituents:
- Partially refined calcium sulphate produced from flue-gas desulphurisation (FGD)
 - Waste gypsum wallboard or plasterboard arising from the demolition of buildings
 - Slag from copper production, chemically stabilised, having a high iron content (above 20 %) and processed according to industrial specifications (e.g. DIN 4301 and DIN 8201) mainly for construction and abrasive applications
 - Sulphur in solid form
 - Limestone from the production of calcium cyanamide (having a pH less than 9)
 - Sodium, potassium, calcium chlorides
 - Carborundum (silicon carbide)

- Broken concrete
 - Lithium-Tantalum and Lithium-Niobium containing glass scraps
- B2050 Coal-fired power plant fly-ash, not included on list A (note the related entry on list A, A2060)
- B2060 Spent activated carbon not containing any Annex I constituents to an extent they exhibit Annex III characteristics, for example, carbon resulting from the treatment of potable water and processes of the food industry and vitamin production (note the related entry on list A A4160)
- B2070 Calcium fluoride sludge
- B2080 Waste gypsum arising from chemical industry processes not included on list A (note the related entry on list A, A2040)
- B2090 Waste anode butts from steel or aluminium production made of petroleum coke or bitumen and cleaned to normal industry specifications (excluding anode butts from chlor alkali electrolyses and from metallurgical industry)
- B2100 Waste hydrates of aluminium and waste alumina and residues from alumina production excluding such materials used for gas cleaning, flocculation or filtration processes
- B2110 Bauxite residue (red mud) (pH moderated to less than 11,5)
- B2120 Waste acidic or basic solutions with a pH greater than 2 and less than 11,5, which are not corrosive or otherwise hazardous (note the related entry on list A, A4090)
- B2130 Bituminous material (asphalt waste) from road construction and maintenance, not containing tar ⁽¹⁾(note the related entry on list A A3200)
- B3 WASTES CONTAINING PRINCIPALLY ORGANIC CONSTITUENTS, WHICH MAY CONTAIN METALS AND INORGANIC MATERIALS
- B3010 Solid plastic waste:
- The following plastic or mixed plastic materials, provided they are not mixed with other wastes and are prepared to a specification:
- Scrap plastic of non-halogenated polymers and copolymers, including but not limited to the following ⁽²⁾:
 - ethylene
 - styrene
 - polypropylene
 - polyethylene terephthalate
 - acrylonitrile
 - butadiene
 - polyacetals
 - polyamides
 - polybutylene terephthalate
 - polycarbonates
 - polyethers
 - polyphenylene sulphides

⁽¹⁾ The concentration level of Benzo[a]pyrene should not be 50mg/kg or more.

⁽²⁾ It is understood that such scraps are completely polymerised.

- acrylic polymers
- alkanes C10-C13 (plasticiser)
- polyurethane (not containing CFCs)
- polysiloxanes
- polymethyl methacrylate
- polyvinyl alcohol
- polyvinyl butyral
- polyvinyl acetate
- Cured waste resins or condensation products including the following:
 - urea formaldehyde resins
 - phenol formaldehyde resins
 - melamine formaldehyde resins
 - epoxy resins
 - alkyd resins
 - polyamides
- The following fluorinated polymer wastes ⁽¹⁾:
 - Perfluoroethylene/propylene (FEP)
 - Perfluoro alkoxyl alkane
 - Tetrafluoroethylene/per fluoro vinyl ether (PFA)
 - Tetrafluoroethylene/per fluoro methylvinyl ether (MFA)
 - Polyvinylfluoride (PVF)
 - Polyvinylidene fluoride (PVDF)

B3020 Paper, paperboard and paper product wastes

The following materials, provided they are not mixed with hazardous wastes:

Waste and scrap of paper or paperboard of:

- unbleached paper or paperboard or of corrugated paper or paperboard
- other paper or paperboard, made mainly of bleached chemical pulp, not coloured in the mass
- paper or paperboard made mainly of mechanical pulp (for example, newspapers, journals and similar printed matter)
- other, including but not limited to
 1. laminated paperboard;
 2. unsorted scrap

⁽¹⁾ — Post-consumer wastes are excluded from this entry.
— Wastes shall not be mixed.
— Problems arising from open-burning practices to be considered.

B3030 Textile wastes

The following materials, provided they are not mixed with other wastes and are prepared to a specification:

- Silk waste (including cocoons unsuitable for reeling, yarn waste and garnetted stock)
 - not carded or combed
 - other
- Waste of wool or of fine or coarse animal hair, including yarn waste but excluding garnetted stock
 - noils of wool or of fine animal hair
 - other waste of wool or of fine animal hair
 - waste of coarse animal hair
- Cotton waste (including yarn waste and garnetted stock)
 - yarn waste (including thread waste)
 - garnetted stock
 - other
- Flax tow and waste
- Tow and waste (including yarn waste and garnetted stock) of true hemp (*Cannabis sativa* L.)
- Tow and waste (including yarn waste and garnetted stock) of jute and other textile bast fibres (excluding flax, true hemp and ramie)
- Tow and waste (including yarn waste and garnetted stock) of sisal and other textile fibres of the genus *Agave*
- Tow, noils and waste (including yarn waste and garnetted stock) of coconut
- Tow, noils and waste (including yarn waste and garnetted stock) of abaca (*Manila hemp* or *Musa textilis* Nee)
- Tow, noils and waste (including yarn waste and garnetted stock) of ramie and other vegetable textile fibres, not elsewhere specified or included
- Waste (including noils, yarn waste and garnetted stock) of man-made fibres
 - of synthetic fibres
 - of artificial fibres
- Worn clothing and other worn textile articles
- Used rags, scrap twine, cordage, rope and cables and worn out articles of twine, cordage, rope or cables of textile
 - sorted
 - other

B3035 Waste textile floor coverings, carpets

B3040 Rubber wastes

The following materials, provided they are not mixed with other wastes:

- Waste and scrap of hard rubber (e.g. ebonite)
- Other rubber wastes (excluding such wastes specified elsewhere)

- B3050 Untreated cork and wood waste:
- Wood waste and scrap, whether or not agglomerated in logs, briquettes, pellets or similar forms
 - Cork waste: crushed, granulated or ground cork
- B3060 Wastes arising from agro-food industries provided it is not infectious:
- Wine lees
 - Dried and sterilised vegetable waste, residues and byproducts, whether or not in the form of pellets, or a kind used in animal feeding, not elsewhere specified or included
 - Degras: residues resulting from the treatment of fatty substances or animal or vegetable waxes
 - Waste of bones and horn-cores, unworked, defatted, simply prepared (but not cut to shape), treated with acid or degelatinised
 - Fish waste
 - Cocoa shells, husks, skins and other cocoa waste
 - Other wastes from the agro-food industry excluding by-products which meet national and international requirements and standards for human or animal consumption
- B3065 Waste edible fats and oils of animal or vegetable origin (e.g. frying oils), provided they do not exhibit an Annex III characteristic
- B3070 The following wastes:
- Waste of human hair
 - Waste straw
 - Deactivated fungus mycelium from penicillin production to be used as animal feed
- B3080 Waste parings and scrap of rubber
- B3090 Paring and other wastes of leather or of composition leather not suitable for the manufacture of leather articles, excluding leather sludges, not containing hexavalent chromium compounds and biocides (note the related entry on list A, A3100)
- B3100 Leather dust, ash, sludges or flours not containing hexavalent chromium compounds or biocides (note the related entry on list A, A3090)
- B3110 Fellmongery wastes not containing hexavalent chromium compounds or biocides or infectious substances (note the related entry on list A, A3110)
- B3120 Wastes consisting of food dyes
- B3130 Waste polymer ethers and waste non-hazardous monomer ethers incapable of forming peroxides
- B3140 Waste pneumatic tyres, excluding those destined for Annex IVA operations
- B4 WASTES WHICH MAY CONTAIN EITHER INORGANIC OR ORGANIC CONSTITUENTS
- B4010 Wastes consisting mainly of water-based/latex paints, inks and hardened varnishes not containing organic solvents, heavy metals or biocides to an extent to render them hazardous (note the related entry on list A, A4070)
- B4020 Wastes from production, formulation and use of resins, latex, plasticisers, glues/adhesives, not listed on list A, free of solvents and other contaminants to an extent that they do not exhibit Annex III characteristics, e.g. water based, or glues based on casein starch, dextrin, cellulose ethers, polyvinyl alcohols (note the related entry on list A, A3050)
- B4030 Used single use cameras, with batteries not included on list A

Part 2*Wastes listed in the Annex to Decision 2000/532/EC⁽¹⁾*

- 01 WASTES RESULTING FROM EXPLORATION, MINING, QUARRYING, AND PHYSICAL AND CHEMICAL TREATMENT OF MINERALS
- 01 01 wastes from mineral excavation
 - 01 01 01 wastes from mineral metalliferous excavation
 - 01 01 02 wastes from mineral non-metalliferous excavation
 - 01 03 wastes from physical and chemical processing of metalliferous minerals
 - 01 03 04* acid-generating tailings from processing of sulphide ore
 - 01 03 05* other tailings containing dangerous substances
 - 01 03 06 tailings other than those mentioned in 01 03 04 and 01 03 05
 - 01 03 07* other wastes containing dangerous substances from physical and chemical processing of metalliferous minerals
 - 01 03 08 dusty and powdery wastes other than those mentioned in 01 03 07
 - 01 03 09 red mud from alumina production other than the wastes mentioned in 01 03 07
 - 01 03 99 wastes not otherwise specified
 - 01 04 wastes from physical and chemical processing of non-metalliferous minerals
 - 01 04 07* wastes containing dangerous substances from physical and chemical processing of non-metalliferous minerals
 - 01 04 08 waste gravel and crushed rocks other than those mentioned in 01 04 07
 - 01 04 09 waste sand and clays
 - 01 04 10 dusty and powdery wastes other than those mentioned in 01 04 07
 - 01 04 11 wastes from potash and rock-salt processing other than those mentioned in 01 04 07
 - 01 04 12 tailings and other wastes from washing and cleaning of minerals other than those mentioned in 01 04 07 and 01 04 11
 - 01 04 13 wastes from stone cutting and sawing other than those mentioned in 01 04 07
 - 01 04 99 wastes not otherwise specified
 - 01 05 drilling muds and other drilling wastes
 - 01 05 04 fresh-water drilling muds and wastes
 - 01 05 05* oil-containing drilling muds and wastes
 - 01 05 06* drilling muds and other drilling wastes containing dangerous substances
 - 01 05 07 barite-containing drilling muds and wastes other than those mentioned in 01 05 05 and 01 05 06
 - 01 05 08 chloride-containing drilling muds and wastes other than those mentioned in 01 05 05 and 01 05 06
 - 01 05 99 wastes not otherwise specified
- 02 WASTES FROM AGRICULTURE, HORTICULTURE, AQUACULTURE, FORESTRY, HUNTING AND FISHING, FOOD PREPARATION AND PROCESSING
- 02 01 wastes from agriculture, horticulture, aquaculture, forestry, hunting and fishing
 - 02 01 01 sludges from washing and cleaning
 - 02 01 02 animal-tissue waste
 - 02 01 03 plant-tissue waste
 - 02 01 04 waste plastics (except packaging)
 - 02 01 06 animal faeces, urine and manure (including spoiled straw), effluent, collected separately and treated off-site
 - 02 01 07 wastes from forestry
 - 02 01 08* agrochemical waste containing dangerous substances
 - 02 01 09 agrochemical waste other than those mentioned in 02 01 08
 - 02 01 10 waste metal
 - 02 01 99 wastes not otherwise specified
 - 02 02 wastes from the preparation and processing of meat, fish and other foods of animal origin
 - 02 02 01 sludges from washing and cleaning
 - 02 02 02 animal-tissue waste

⁽¹⁾ Wastes marked with an asterisk are considered to be hazardous waste pursuant to Directive 91/689/EEC. When identifying a waste in the list below, the introduction to the Annex of Decision 2000/532/EC is relevant.

02 02 03	materials unsuitable for consumption or processing
02 02 04	sludges from on-site effluent treatment
02 02 99	wastes not otherwise specified
02 03	wastes from fruit, vegetables, cereals, edible oils, cocoa, coffee, tea and tobacco preparation and processing; conserve production; yeast and yeast extract production, molasses preparation and fermentation
02 03 01	sludges from washing, cleaning, peeling, centrifuging and separation
02 03 02	wastes from preserving agents
02 03 03	wastes from solvent extraction
02 03 04	materials unsuitable for consumption or processing
02 03 05	sludges from on-site effluent treatment
02 03 99	wastes not otherwise specified
02 04	wastes from sugar processing
02 04 01	soil from cleaning and washing beet
02 04 02	off-specification calcium carbonate
02 04 03	sludges from on-site effluent treatment
02 04 99	wastes not otherwise specified
02 05	wastes from the dairy products industry
02 05 01	materials unsuitable for consumption or processing
02 05 02	sludges from on-site effluent treatment
02 05 99	wastes not otherwise specified
02 06	wastes from the baking and confectionery industry
02 06 01	materials unsuitable for consumption or processing
02 06 02	wastes from preserving agents
02 06 03	sludges from on-site effluent treatment
02 06 99	wastes not otherwise specified
02 07	wastes from the production of alcoholic and non-alcoholic beverages (except coffee, tea and cocoa)
02 07 01	wastes from washing, cleaning and mechanical reduction of raw materials
02 07 02	wastes from spirits distillation
02 07 03	wastes from chemical treatment
02 07 04	materials unsuitable for consumption or processing
02 07 05	sludges from on-site effluent treatment
02 07 99	wastes not otherwise specified
03	WASTES FROM WOOD PROCESSING AND THE PRODUCTION OF PANELS AND FURNITURE, PULP, PAPER AND CARDBOARD
03 01	wastes from wood processing and the production of panels and furniture
03 01 01	waste bark and cork
03 01 04*	sawdust, shavings, cuttings, wood, particle board and veneer containing dangerous substances
03 01 05	sawdust, shavings, cuttings, wood, particle board and veneer other than those mentioned in 03 01 04
03 01 99	wastes not otherwise specified
03 02	wastes from wood preservation
03 02 01*	non-halogenated organic wood preservatives
03 02 02*	organochlorinated wood preservatives
03 02 03*	organometallic wood preservatives
03 02 04*	inorganic wood preservatives
03 02 05*	other wood preservatives containing dangerous substances
03 02 99	wood preservatives not otherwise specified
03 03	wastes from pulp, paper and cardboard production and processing
03 03 01	waste bark and wood
03 03 02	green liquor sludge (from recovery of cooking liquor)
03 03 05	de-inking sludges from paper recycling
03 03 07	mechanically separated rejects from pulping of waste paper and cardboard
03 03 08	wastes from sorting of paper and cardboard destined for recycling
03 03 09	lime mud waste
03 03 10	fibre rejects, fibre-, filler- and coating sludges from mechanical separation
03 03 11	sludges from on-site effluent treatment other than those mentioned in 03 03 10
03 03 99	wastes not otherwise specified

- 04 WASTES FROM THE LEATHER, FUR AND TEXTILE INDUSTRIES
 - 04 01 wastes from the leather and fur industry
 - 04 01 01 fleshings and lime split wastes
 - 04 01 02 liming waste
 - 04 01 03* degreasing wastes containing solvents without a liquid phase
 - 04 01 04 tanning liquor containing chromium
 - 04 01 05 tanning liquor free of chromium
 - 04 01 06 sludges, in particular from on-site effluent treatment containing chromium
 - 04 01 07 sludges, in particular from on-site effluent treatment free of chromium
 - 04 01 08 waste tanned leather (blue sheetings, shavings, cuttings, buffing dust) containing chromium
 - 04 01 09 wastes from dressing and finishing
 - 04 01 99 wastes not otherwise specified
 - 04 02 wastes from the textile industry
 - 04 02 09 wastes from composite materials (impregnated textile, elastomer, plastomer)
 - 04 02 10 organic matter from natural products (e.g. grease, wax)
 - 04 02 14* wastes from finishing containing organic solvents
 - 04 02 15 wastes from finishing other than those mentioned in 04 02 14
 - 04 02 16* dyestuffs and pigments containing dangerous substances
 - 04 02 17 dyestuffs and pigments other than those mentioned in 04 02 16
 - 04 02 19* sludges from on-site effluent treatment containing dangerous substances
 - 04 02 20 sludges from on-site effluent treatment other than those mentioned in 04 02 19
 - 04 02 21 wastes from unprocessed textile fibres
 - 04 02 22 wastes from processed textile fibres
 - 04 02 99 wastes not otherwise specified
- 05 WASTES FROM PETROLEUM REFINING, NATURAL GAS PURIFICATION AND PYROLYTIC TREATMENT OF COAL
 - 05 01 wastes from petroleum refining
 - 05 01 02* desalter sludges
 - 05 01 03* tank bottom sludges
 - 05 01 04* acid alkyl sludges
 - 05 01 05* oil spills
 - 05 01 06* oily sludges from maintenance operations of the plant or equipment
 - 05 01 07* acid tars
 - 05 01 08* other tars
 - 05 01 09* sludges from on-site effluent treatment containing dangerous substances
 - 05 01 10 sludges from on-site effluent treatment other than those mentioned in 05 01 09
 - 05 01 11* wastes from cleaning of fuels with bases
 - 05 01 12* oil containing acids
 - 05 01 13 boiler feedwater sludges
 - 05 01 14 wastes from cooling columns
 - 05 01 15* spent filter clays
 - 05 01 16 sulphur-containing wastes from petroleum desulphurisation
 - 05 01 17 bitumen
 - 05 01 99 wastes not otherwise specified
 - 05 06 wastes from the pyrolytic treatment of coal
 - 05 06 01* acid tars
 - 05 06 03* other tars
 - 05 06 04 waste from cooling columns
 - 05 06 99 wastes not otherwise specified
 - 05 07 wastes from natural gas purification and transportation
 - 05 07 01* wastes containing mercury
 - 05 07 02 wastes containing sulphur
 - 05 07 99 wastes not otherwise specified

06	WASTES FROM INORGANIC CHEMICAL PROCESSES
06 01	wastes from the manufacture, formulation, supply and use (MFSU) of acids
06 01 01*	sulphuric acid and sulphurous acid
06 01 02*	hydrochloric acid
06 01 03*	hydrofluoric acid
06 01 04*	phosphoric and phosphorous acid
06 01 05*	nitric acid and nitrous acid
06 01 06*	other acids
06 01 99	wastes not otherwise specified
06 02	wastes from the MFSU of bases
06 02 01*	calcium hydroxide
06 02 03*	ammonium hydroxide
06 02 04*	sodium and potassium hydroxide
06 02 05*	other bases
06 02 99	wastes not otherwise specified
06 03	wastes from the MFSU of salts and their solutions and metallic oxides
06 03 11*	solid salts and solutions containing cyanides
06 03 13*	solid salts and solutions containing heavy metals
06 03 14	solid salts and solutions other than those mentioned in 06 03 11 and 06 03 13
06 03 15*	metallic oxides containing heavy metals
06 03 16	metallic oxides other than those mentioned in 06 03 15
06 03 99	wastes not otherwise specified
06 04	metal-containing wastes other than those mentioned in 06 03
06 04 03*	wastes containing arsenic
06 04 04*	wastes containing mercury
06 04 05*	wastes containing other heavy metals
06 04 99	wastes not otherwise specified
06 05	sludges from on-site effluent treatment
06 05 02*	sludges from on-site effluent treatment containing dangerous substances
06 05 03	sludges from on-site effluent treatment other than those mentioned in 06 05 02
06 06	wastes from the MFSU of sulphur chemicals, sulphur chemical processes and desulphurisation processes
06 06 02*	wastes containing dangerous sulphides
06 06 03	wastes containing sulphides other than those mentioned in 06 06 02
06 06 99	wastes not otherwise specified
06 07	wastes from the MFSU of halogens and halogen chemical processes
06 07 01*	wastes containing asbestos from electrolysis
06 07 02*	activated carbon from chlorine production
06 07 03*	barium sulphate sludge containing mercury
06 07 04*	solutions and acids, e.g. contact acid
06 07 99	wastes not otherwise specified
06 08	wastes from the MFSU of silicon and silicon derivatives
06 08 02*	wastes containing dangerous chlorosilanes
06 08 99	wastes not otherwise specified
06 09	wastes from the MFSU of phosphorous chemicals and phosphorous chemical processes
06 09 02	phosphorous slag
06 09 03*	calcium-based reaction wastes containing or contaminated with dangerous substances
06 09 04	calcium-based reaction wastes other than those mentioned in 06 09 03
06 09 99	wastes not otherwise specified
06 10	wastes from the MFSU of nitrogen chemicals, nitrogen chemical processes and fertiliser manufacture
06 10 02*	wastes containing dangerous substances
06 10 99	wastes not otherwise specified
06 11	wastes from the manufacture of inorganic pigments and opacifiers
06 11 01	calcium-based reaction wastes from titanium dioxide production
06 11 99	wastes not otherwise specified
06 13	wastes from inorganic chemical processes not otherwise specified
06 13 01*	inorganic plant protection products, wood-preserving agents and other biocides.
06 13 02*	spent activated carbon (except 06 07 02)
06 13 03	carbon black

06 13 04*	wastes from asbestos processing
06 13 05*	soot
06 13 99	wastes not otherwise specified
07	WASTES FROM ORGANIC CHEMICAL PROCESSES
07 01	wastes from the manufacture, formulation, supply and use (MFSU) of basic organic chemicals
07 01 01*	aqueous washing liquids and mother liquors
07 01 03*	organic halogenated solvents, washing liquids and mother liquors
07 01 04*	other organic solvents, washing liquids and mother liquors
07 01 07*	halogenated still bottoms and reaction residues
07 01 08*	other still bottoms and reaction residues
07 01 09*	halogenated filter cakes and spent absorbents
07 01 10*	other filter cakes and spent absorbents
07 01 11*	sludges from on-site effluent treatment containing dangerous substances
07 01 12	sludges from on-site effluent treatment other than those mentioned in 07 01 11
07 01 99	wastes not otherwise specified
07 02	wastes from the MFSU of plastics, synthetic rubber and man-made fibres
07 02 01*	aqueous washing liquids and mother liquors
07 02 03*	organic halogenated solvents, washing liquids and mother liquors
07 02 04*	other organic solvents, washing liquids and mother liquors
07 02 07*	halogenated still bottoms and reaction residues
07 02 08*	other still bottoms and reaction residues
07 02 09*	halogenated filter cakes and spent absorbents
07 02 10*	other filter cakes and spent absorbents
07 02 11*	sludges from on-site effluent treatment containing dangerous substances
07 02 12	sludges from on-site effluent treatment other than those mentioned in 07 02 11
07 02 13	waste plastic
07 02 14*	wastes from additives containing dangerous substances
07 02 15	wastes from additives other than those mentioned in 07 02 14
07 02 16*	wastes containing dangerous silicones
07 02 17	waste containing silicones other than those mentioned in 07 02 16
07 02 99	wastes not otherwise specified
07 03	wastes from the MFSU of organic dyes and pigments (except 06 11)
07 03 01*	aqueous washing liquids and mother liquors
07 03 03*	organic halogenated solvents, washing liquids and mother liquors
07 03 04*	other organic solvents, washing liquids and mother liquors
07 03 07*	halogenated still bottoms and reaction residues
07 03 08*	other still bottoms and reaction residues
07 03 09*	halogenated filter cakes and spent absorbents
07 03 10*	other filter cakes and spent absorbents
07 03 11*	sludges from on-site effluent treatment containing dangerous substances
07 03 12	sludges from on-site effluent treatment other than those mentioned in 07 03 11
07 03 99	wastes not otherwise specified
07 04	wastes from the MFSU of organic plant protection products (except 02 01 08 and 02 01 09), wood preserving agents (except 03 02) and other biocides
07 04 01*	aqueous washing liquids and mother liquors
07 04 03*	organic halogenated solvents, washing liquids and mother liquors
07 04 04*	other organic solvents, washing liquids and mother liquors
07 04 07*	halogenated still bottoms and reaction residues
07 04 08*	other still bottoms and reaction residues
07 04 09*	halogenated filter cakes and spent absorbents
07 04 10*	other filter cakes and spent absorbents
07 04 11*	sludges from on-site effluent treatment containing dangerous substances
07 04 12	sludges from on-site effluent treatment other than those mentioned in 07 04 11
07 04 13*	solid wastes containing dangerous substances
07 04 99	wastes not otherwise specified
07 05	wastes from the MFSU of pharmaceuticals
07 05 01*	aqueous washing liquids and mother liquors

- 07 05 03* organic halogenated solvents, washing liquids and mother liquors
- 07 05 04* other organic solvents, washing liquids and mother liquors
- 07 05 07* halogenated still bottoms and reaction residues
- 07 05 08* other still bottoms and reaction residues
- 07 05 09* halogenated filter cakes and spent absorbents
- 07 05 10* other filter cakes and spent absorbents
- 07 05 11* sludges from on-site effluent treatment containing dangerous substances
- 07 05 12 sludges from on-site effluent treatment other than those mentioned in 07 05 11
- 07 05 13* solid wastes containing dangerous substances
- 07 05 14 solid wastes other than those mentioned in 07 05 13
- 07 05 99 wastes not otherwise specified
- 07 06 wastes from the MFSU of fats, grease, soaps, detergents, disinfectants and cosmetics
- 07 06 01* aqueous washing liquids and mother liquors
- 07 06 03* organic halogenated solvents, washing liquids and mother liquors
- 07 06 04* other organic solvents, washing liquids and mother liquors
- 07 06 07* halogenated still bottoms and reaction residues
- 07 06 08* other still bottoms and reaction residues
- 07 06 09* halogenated filter cakes and spent absorbents
- 07 06 10* other filter cakes and spent absorbents
- 07 06 11* sludges from on-site effluent treatment containing dangerous substances
- 07 06 12 sludges from on-site effluent treatment other than those mentioned in 07 06 11
- 07 06 99 wastes not otherwise specified
- 07 07 wastes from the MFSU of fine chemicals and chemical products not otherwise specified
- 07 07 01* aqueous washing liquids and mother liquors
- 07 07 03* organic halogenated solvents, washing liquids and mother liquors
- 07 07 04* other organic solvents, washing liquids and mother liquors
- 07 07 07* halogenated still bottoms and reaction residues
- 07 07 08* other still bottoms and reaction residues
- 07 07 09* halogenated filter cakes and spent absorbents
- 07 07 10* other filter cakes and spent absorbents
- 07 07 11* sludges from on-site effluent treatment containing dangerous substances
- 07 07 12 sludges from on-site effluent treatment other than those mentioned in 07 07 11
- 07 07 99 wastes not otherwise specified

- 08 WASTES FROM THE MANUFACTURE, FORMULATION, SUPPLY AND USE (MFSU) OF COATINGS (PAINTS, VARNISHES AND VITREOUS ENAMELS), ADHESIVES, SEALANTS AND PRINTING INKS
- 08 01 wastes from MFSU and removal of paint and varnish
- 08 01 11* waste paint and varnish containing organic solvents or other dangerous substances
- 08 01 12 waste paint and varnish other than those mentioned in 08 01 11
- 08 01 13* sludges from paint or varnish containing organic solvents or other dangerous substances
- 08 01 14 sludges from paint or varnish other than those mentioned in 08 01 13
- 08 01 15* aqueous sludges containing paint or varnish containing organic solvents or other dangerous substances
- 08 01 16 aqueous sludges containing paint or varnish other than those mentioned in 08 01 15
- 08 01 17* wastes from paint or varnish removal containing organic solvents or other dangerous substances
- 08 01 18 wastes from paint or varnish removal other than those mentioned in 08 01 17
- 08 01 19* aqueous suspensions containing paint or varnish containing organic solvents or other dangerous substances
- 08 01 20 aqueous suspensions containing paint or varnish other than those mentioned in 08 01 19
- 08 01 21* waste paint or varnish remover
- 08 01 99 wastes not otherwise specified
- 08 02 wastes from MFSU of other coatings (including ceramic materials)
- 08 02 01 waste coating powders
- 08 02 02 aqueous sludges containing ceramic materials
- 08 02 03 aqueous suspensions containing ceramic materials
- 08 02 99 wastes not otherwise specified
- 08 03 wastes from MFSU of printing inks
- 08 03 07 aqueous sludges containing ink
- 08 03 08 aqueous liquid waste containing ink

- 08 03 12* waste ink containing dangerous substances
- 08 03 13 waste ink other than those mentioned in 08 03 12
- 08 03 14* ink sludges containing dangerous substances
- 08 03 15 ink sludges other than those mentioned in 08 03 14
- 08 03 16* waste etching solutions
- 08 03 17* waste printing toner containing dangerous substances
- 08 03 18 waste printing toner other than those mentioned in 08 03 17
- 08 03 19* disperse oil
- 08 03 99 wastes not otherwise specified
- 08 04 wastes from MFSU of adhesives and sealants (including waterproofing products)
- 08 04 09* waste adhesives and sealants containing organic solvents or other dangerous substances
- 08 04 10 waste adhesives and sealants other than those mentioned in 08 04 09
- 08 04 11* adhesive and sealant sludges containing organic solvents or other dangerous substances
- 08 04 12 adhesive and sealant sludges other than those mentioned in 08 04 11
- 08 04 13* aqueous sludges containing adhesives or sealants containing organic solvents or other dangerous substances
- 08 04 14 aqueous sludges containing adhesives or sealants other than those mentioned in 08 04 13
- 08 04 15* aqueous liquid waste containing adhesives or sealants containing organic solvents or other dangerous substances
- 08 04 16 aqueous liquid waste containing adhesives or sealants other than those mentioned in 08 04 15
- 08 04 17* rosin oil
- 08 04 99 wastes not otherwise specified
- 08 05 wastes not otherwise specified in 08
- 08 05 01* waste isocyanates

- 09 WASTES FROM THE PHOTOGRAPHIC INDUSTRY
- 09 01 wastes from the photographic industry
- 09 01 01* water-based developer and activator solutions
- 09 01 02* water-based offset plate developer solutions
- 09 01 03* solvent-based developer solutions
- 09 01 04* fixer solutions
- 09 01 05* bleach solutions and bleach fixer solutions
- 09 01 06* wastes containing silver from on-site treatment of photographic wastes
- 09 01 07 photographic film and paper containing silver or silver compounds
- 09 01 08 photographic film and paper free of silver or silver compounds
- 09 01 10 single-use cameras without batteries
- 09 01 11* single-use cameras containing batteries included in 16 06 01, 16 06 02 or 16 06 03
- 09 01 12 single-use cameras containing batteries other than those mentioned in 09 01 11
- 09 01 13* aqueous liquid waste from on-site reclamation of silver other than those mentioned in 09 01 06
- 09 01 99 wastes not otherwise specified

- 10 WASTES FROM THERMAL PROCESSES
- 10 01 wastes from power stations and other combustion plants (except 19)
- 10 01 01 bottom ash, slag and boiler dust (excluding boiler dust mentioned in 10 01 04)
- 10 01 02 coal fly ash
- 10 01 03 fly ash from peat and untreated wood
- 10 01 04* oil fly ash and boiler dust
- 10 01 05 calcium-based reaction wastes from flue-gas desulphurisation in solid form
- 10 01 07 calcium-based reaction wastes from flue-gas desulphurisation in sludge form
- 10 01 09* sulphuric acid
- 10 01 13* fly ash from emulsified hydrocarbons used as fuel
- 10 01 14* bottom ash, slag and boiler dust from co-incineration containing dangerous substances
- 10 01 15 bottom ash, slag and boiler dust from co-incineration other than those mentioned in 10 01 14
- 10 01 16* fly ash from co-incineration containing dangerous substances
- 10 01 17 fly ash from co-incineration other than those mentioned in 10 01 16
- 10 01 18* wastes from gas cleaning containing dangerous substances
- 10 01 19 wastes from gas cleaning other than those mentioned in 10 01 05, 10 01 07 and 10 01 18
- 10 01 20* sludges from on-site effluent treatment containing dangerous substances
- 10 01 21 sludges from on-site effluent treatment other than those mentioned in 10 01 20

- 10 01 22* aqueous sludges from boiler cleansing containing dangerous substances
- 10 01 23 aqueous sludges from boiler cleansing other than those mentioned in 10 01 22
- 10 01 24 sands from fluidised beds
- 10 01 25 wastes from fuel storage and preparation of coal-fired power plants
- 10 01 26 wastes from cooling-water treatment
- 10 01 99 wastes not otherwise specified
- 10 02 wastes from the iron and steel industry
- 10 01 01 wastes from the processing of slag
- 10 01 02 unprocessed slag
- 10 01 07* solid wastes from gas treatment containing dangerous substances
- 10 01 08 solid wastes from gas treatment other than those mentioned in 10 02 07
- 10 01 10 mill scales
- 10 01 11* wastes from cooling-water treatment containing oil
- 10 01 12 wastes from cooling-water treatment other than those mentioned in 10 02 11
- 10 01 13* sludges and filter cakes from gas treatment containing dangerous substances
- 10 01 14 sludges and filter cakes from gas treatment other than those mentioned in 10 02 13
- 10 01 15 other sludges and filter cakes
- 10 02 99 wastes not otherwise specified
- 10 03 wastes from aluminium thermal metallurgy
- 10 03 02 anode scraps
- 10 03 04 primary production slags
- 10 03 05 waste alumina
- 10 03 08* salt slags from secondary production
- 10 03 09* black drosses from secondary production
- 10 03 15* skimmings that are flammable or emit, upon contact with water, flammable gases in dangerous quantities
- 10 03 16 skimmings other than those mentioned in 10 03 15
- 10 03 17* tar-containing wastes from anode manufacture
- 10 03 18 carbon-containing wastes from anode manufacture other than those mentioned in 10 03 17
- 10 03 19* flue-gas dust containing dangerous substances
- 10 03 20 flue-gas dust other than those mentioned in 10 03 19
- 10 03 21* other particulates and dust (including ball-mill dust) containing dangerous substances
- 10 03 22 other particulates and dust (including ball-mill dust) other than those mentioned in 10 03 21
- 10 03 23* solid wastes from gas treatment containing dangerous substances
- 10 03 24 solid wastes from gas treatment other than those mentioned in 10 03 23
- 10 03 25* sludges and filter cakes from gas treatment containing dangerous substances
- 10 03 26 sludges and filter cakes from gas treatment other than those mentioned in 10 03 25
- 10 03 27* wastes from cooling-water treatment containing oil
- 10 03 28 wastes from cooling-water treatment other than those mentioned in 10 03 27
- 10 03 29* wastes from treatment of salt slags and black drosses containing dangerous substances
- 10 03 30 wastes from treatment of salt slags and black drosses other than those mentioned in 10 03 29
- 10 03 99 wastes not otherwise specified
- 10 04 wastes from lead thermal metallurgy
- 10 04 01* slags from primary and secondary production
- 10 04 02* dross and skimmings from primary and secondary production
- 10 04 03* calcium arsenate
- 10 04 04* flue-gas dust
- 10 04 05* other particulates and dust
- 10 04 06* solid wastes from gas treatment
- 10 04 07* sludges and filter cakes from gas treatment
- 10 04 09* wastes from cooling-water treatment containing oil
- 10 04 10 wastes from cooling-water treatment other than those mentioned in 10 04 09
- 10 04 99 wastes not otherwise specified
- 10 05 wastes from zinc thermal metallurgy
- 10 05 01 slags from primary and secondary production
- 10 05 03* flue-gas dust
- 10 05 04 other particulates and dust
- 10 05 05* solid waste from gas treatment
- 10 05 06* sludges and filter cakes from gas treatment

10 05 08*	wastes from cooling-water treatment containing oil
10 05 09	wastes from cooling-water treatment other than those mentioned in 10 05 08
10 05 10*	dross and skimmings that are flammable or emit, upon contact with water, flammable gases in dangerous quantities
10 05 11	dross and skimmings other than those mentioned in 10 05 10
10 05 99	wastes not otherwise specified
10 06	wastes from copper thermal metallurgy
10 06 01	dross and skimmings from primary and secondary production
10 06 02	slags from primary and secondary production
10 06 03*	flue-gas dust
10 06 04	other particulates and dust
10 06 06*	solid wastes from gas treatment
10 06 07*	sludges and filter cakes from gas treatment
10 06 09*	wastes from cooling-water treatment containing oil
10 06 10	wastes from cooling-water treatment other than those mentioned in 10 06 09
10 06 99	wastes not otherwise specified
10 07	wastes from silver, gold and platinum thermal metallurgy
10 07 01	slags from primary and secondary production
10 07 02	dross and skimmings from primary and secondary production
10 07 03	solid wastes from gas treatment
10 07 04	other particulates and dust
10 07 05	sludges and filter cakes from gas treatment
10 07 07*	wastes from cooling-water treatment containing oil
10 07 08	wastes from cooling-water treatment other than those mentioned in 10 07 07
10 07 99	wastes not otherwise specified
10 08	wastes from other non-ferrous thermal metallurgy
10 08 04*	particulates and dust
10 08 08*	salt slag from primary and secondary production
10 08 09*	other slags
10 08 10*	dross and skimmings that are flammable or emit, upon contact with water, flammable gases in dangerous quantities
10 08 11	dross and skimmings other than those mentioned in 10 08 10
10 08 12*	tar-containing wastes from anode manufacture
10 08 13	carbon-containing wastes from anode manufacture other than those mentioned in 10 08 12
10 08 14	anode scrap
10 08 15*	flue-gas dust containing dangerous substances
10 08 16	flue-gas dust other than those mentioned in 10 08 15
10 08 17*	sludges and filter cakes from flue-gas treatment containing dangerous substances
10 08 18	sludges and filter cakes from flue-gas treatment other than those mentioned in 10 08 17
10 08 19*	wastes from cooling-water treatment containing oil
10 08 20	wastes from cooling-water treatment other than those mentioned in 10 08 19
10 08 99	wastes not otherwise specified
10 09	wastes from casting of ferrous pieces
10 09 03	furnace slag
10 09 05*	casting cores and moulds which have not undergone pouring containing dangerous substances
10 09 06	casting cores and moulds which have not undergone pouring other than those mentioned in 10 09 05
10 09 07*	casting cores and moulds which have undergone pouring containing dangerous substances
10 09 08	casting cores and moulds which have undergone pouring other than those mentioned in 10 09 07
10 09 09*	flue-gas dust containing dangerous substances
10 09 10	flue-gas dust other than those mentioned in 10 09 09
10 09 11*	other particulates containing dangerous substances
10 09 12	other particulates other than those mentioned in 10 09 11
10 09 13*	waste binders containing dangerous substances
10 09 14	waste binders other than those mentioned in 10 09 13
10 09 15*	waste crack-indicating agent containing dangerous substances
10 09 16	waste crack-indicating agent other than those mentioned in 10 09 15
10 09 99	wastes not otherwise specified
10 10	wastes from casting of non-ferrous pieces
10 10 03	furnace slag

- 10 10 05* casting cores and moulds which have not undergone pouring containing dangerous substances
- 10 10 06 casting cores and moulds which have not undergone pouring other than those mentioned in 10 10 05
- 10 10 07* casting cores and moulds which have undergone pouring containing dangerous substances
- 10 10 08 casting cores and moulds which have undergone pouring other than those mentioned in 10 10 07
- 10 10 09* flue-gas dust containing dangerous substances
- 10 10 10 flue-gas dust other than those mentioned in 10 10 09
- 10 10 11* other particulates containing dangerous substances
- 10 10 12 other particulates other than those mentioned in 10 10 11
- 10 10 13* waste binders containing dangerous substances
- 10 10 14 waste binders other than those mentioned in 10 10 13
- 10 10 15* waste crack-indicating agent containing dangerous substances
- 10 10 16 waste crack-indicating agent other than those mentioned in 10 10 15
- 10 10 99 wastes not otherwise specified
- 10 11 wastes from manufacture of glass and glass products
- 10 11 03 waste glass-based fibrous materials
- 10 11 05 particulates and dust
- 10 11 09* waste preparation mixture before thermal processing containing dangerous substances
- 10 11 10 waste preparation mixture before thermal processing other than those mentioned in 10 11 09
- 10 11 11* waste glass in small particles and glass powder containing heavy metals (e.g. from cathode ray tubes)
- 10 11 12 waste glass other than those mentioned in 10 11 11
- 10 11 13* glass-polishing and -grinding sludge containing dangerous substances
- 10 11 14 glass-polishing and -grinding sludge other than those mentioned in 10 11 13
- 10 11 15* solid wastes from flue-gas treatment containing dangerous substances
- 10 11 16 solid wastes from flue-gas treatment other than those mentioned in 10 11 15
- 10 11 17* sludges and filter cakes from flue-gas treatment containing dangerous substances
- 10 11 18 sludges and filter cakes from flue-gas treatment other than those mentioned in 10 11 17
- 10 11 19* solid wastes from on-site effluent treatment containing dangerous substances
- 10 11 20 solid wastes from on-site effluent treatment other than those mentioned in 10 11 19
- 10 11 99 wastes not otherwise specified
- 10 12 wastes from manufacture of ceramic goods, bricks, tiles and construction products
- 10 12 01 waste preparation mixture before thermal processing
- 10 12 03 particulates and dust
- 10 12 05 sludges and filter cakes from gas treatment
- 10 12 06 discarded molds
- 10 12 08 waste ceramics, bricks, tiles and construction products (after thermal processing)
- 10 12 09* solid wastes from gas treatment containing dangerous substances
- 10 12 10 solid wastes from gas treatment other than those mentioned in 10 12 09
- 10 12 11* wastes from glazing containing heavy metals
- 10 12 12 wastes from glazing other than those mentioned in 10 12 11
- 10 12 13 sludge from on-site effluent treatment
- 10 12 99 wastes not otherwise specified
- 10 13 wastes from manufacture of cement, lime and plaster and articles and products made from them
- 10 13 01 waste preparation mixture before thermal processing
- 10 13 04 wastes from calcination and hydration of lime
- 10 13 06 particulates and dust (except 10 13 12 and 10 13 13)
- 10 13 07 sludges and filter cakes from gas treatment
- 10 13 09* wastes from asbestos-cement manufacture containing asbestos
- 10 13 10 wastes from asbestos-cement manufacture other than those mentioned in 10 13 09
- 10 13 11 wastes from cement-based composite materials other than those mentioned in 10 13 09 and 10 13 10
- 10 13 12* solid wastes from gas treatment containing dangerous substances
- 10 13 13 solid wastes from gas treatment other than those mentioned in 10 13 12
- 10 13 14 waste concrete and concrete sludge
- 10 13 99 wastes not otherwise specified
- 10 14 waste from crematoria
- 10 14 01* waste from gas cleaning containing mercury

- 11 WASTES FROM CHEMICAL SURFACE TREATMENT AND COATING OF METALS AND OTHER MATERIALS; NON-FERROUS HYDRO-METALLURGY
- 11 01 wastes from chemical surface treatment and coating of metals and other materials (e.g. galvanic processes, zinc coating processes, pickling processes, etching, phosphatising, alkaline degreasing, anodising)
 - 11 01 05* pickling acids
 - 11 01 06* acids not otherwise specified
 - 11 01 07* pickling bases
 - 11 01 08* phosphatising sludges
 - 11 01 09* sludges and filter cakes containing dangerous substances
 - 11 01 10 sludges and filter cakes other than those mentioned in 11 01 09
 - 11 01 11* aqueous rinsing liquids containing dangerous substances
 - 11 01 12 aqueous rinsing liquids other than those mentioned in 11 01 11
 - 11 01 13* degreasing wastes containing dangerous substances
 - 11 01 14 degreasing wastes other than those mentioned in 11 01 13
 - 11 01 15* eluate and sludges from membrane systems or ion exchange systems containing dangerous substances
 - 11 01 16* saturated or spent ion exchange resins
 - 11 01 98* other wastes containing dangerous substances
 - 11 01 99 wastes not otherwise specified
 - 11 02 wastes from non-ferrous hydrometallurgical processes
 - 11 02 02* sludges from zinc hydrometallurgy (including Jarosite, goethite)
 - 11 02 03 wastes from the production of anodes for aqueous electrolytical processes
 - 11 02 05* wastes from copper hydrometallurgical processes containing dangerous substances
 - 11 02 06 wastes from copper hydrometallurgical processes other than those mentioned in 11 02 05
 - 11 02 07* other wastes containing dangerous substances
 - 11 02 99 wastes not otherwise specified
 - 11 03 sludges and solids from tempering processes
 - 11 03 01* wastes containing cyanide
 - 11 03 02* other wastes
 - 11 05 wastes from hot galvanising processes
 - 11 05 01 hard zinc
 - 11 05 02 zinc ash
 - 11 05 03* solid wastes from gas treatment
 - 11 05 04* spent flux
 - 11 05 99 wastes not otherwise specified
- 12 WASTES FROM SHAPING AND PHYSICAL AND MECHANICAL SURFACE TREATMENT OF METALS AND PLASTICS
- 12 01 wastes from shaping and physical and mechanical surface treatment of metals and plastics
 - 12 01 01 ferrous metal filings and turnings
 - 12 01 02 ferrous metal dust and particles
 - 12 01 03 non-ferrous metal filings and turnings
 - 12 01 04 non-ferrous metal dust and particles
 - 12 01 05 plastics shavings and turnings
 - 12 01 06* mineral-based machining oils containing halogens (except emulsions and solutions)
 - 12 01 07* mineral-based machining oils free of halogens (except emulsions and solutions)
 - 12 01 08* machining emulsions and solutions containing halogens
 - 12 01 09* machining emulsions and solutions free of halogens
 - 12 01 10* synthetic machining oils
 - 12 01 12* spent waxes and fats
 - 12 01 13 welding wastes
 - 12 01 14* machining sludges containing dangerous substances
 - 12 01 15 machining sludges other than those mentioned in 12 01 14
 - 12 01 16* waste blasting material containing dangerous substances
 - 12 01 17 waste blasting material other than those mentioned in 12 01 16
 - 12 01 18* metal sludge (grinding, honing and lapping sludge) containing oil
 - 12 01 19* readily biodegradable machining oil
 - 12 01 20* spent grinding bodies and grinding materials containing dangerous substances

- 12 01 21 spent grinding bodies and grinding materials other than those mentioned in 12 01 20
- 12 01 99 wastes not otherwise specified
- 12 03 wastes from water and steam degreasing processes (except 11)
- 12 03 01* aqueous washing liquids
- 12 03 02* steam degreasing wastes

- 13 OIL WASTES AND WASTES OF LIQUID FUELS (EXCEPT EDIBLE OILS, AND THOSE IN CHAPTERS 05, 12 AND 19)

- 13 01 waste hydraulic oils
- 13 01 01* hydraulic oils, containing PCBs ⁽¹⁾
- 13 01 04* chlorinated emulsions
- 13 01 05* non-chlorinated emulsions
- 13 01 09* mineral-based chlorinated hydraulic oils
- 13 01 10* mineral based non-chlorinated hydraulic oils
- 13 01 11* synthetic hydraulic oils
- 13 01 12* readily biodegradable hydraulic oils
- 13 01 13* other hydraulic oils
- 13 02 waste engine, gear and lubricating oils
- 13 02 04* mineral-based chlorinated engine, gear and lubricating oils
- 13 02 05* mineral-based non-chlorinated engine, gear and lubricating oils
- 13 02 06* synthetic engine, gear and lubricating oils
- 13 02 07* readily biodegradable engine, gear and lubricating oils
- 13 02 08* other engine, gear and lubricating oils
- 13 03 waste insulating and heat transmission oils
- 13 03 01* insulating or heat transmission oils containing PCBs
- 13 03 06* mineral-based chlorinated insulating and heat transmission oils other than those mentioned in 13 03 01
- 13 03 07* mineral-based non-chlorinated insulating and heat transmission oils
- 13 03 08* synthetic insulating and heat transmission oils
- 13 03 09* readily biodegradable insulating and heat transmission oils
- 13 03 10* other insulating and heat transmission oils
- 13 04 bilge oils
- 13 04 01* bilge oils from inland navigation
- 13 04 02* bilge oils from jetty sewers
- 13 04 03* bilge oils from other navigation
- 13 05 oil/water separator contents
- 13 05 01* solids from grit chambers and oil/water separators
- 13 05 02* sludges from oil/water separators
- 13 05 03* interceptor sludges
- 13 05 06* oil from oil/water separators
- 13 05 07* oily water from oil/water separators
- 13 05 08* mixtures of wastes from grit chambers and oil/water separators
- 13 07 wastes of liquid fuels
- 13 07 01* fuel oil and diesel
- 13 07 02* petrol
- 13 07 03* other fuels (including mixtures)
- 13 08 oil wastes not otherwise specified
- 13 08 01* desalter sludges or emulsions
- 13 08 02* other emulsions
- 13 08 99* wastes not otherwise specified

- 14 WASTE ORGANIC SOLVENTS, REFRIGERANTS AND PROPELLANTS (EXCEPT 07 AND 08)

- 14 06 waste organic solvents, refrigerants and foam/aerosol propellants
- 14 06 01* chlorofluorocarbons, HCFC, HFC

⁽¹⁾ For the purpose of this list of wastes, PCBs will be defined as in Council Directive 96/59/EC of 16 September 1996 on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT) (OJ L 243, 24.9.1996, p. 31).

- 14 06 02* other halogenated solvents and solvent mixtures
- 14 06 03* other solvents and solvent mixtures
- 14 06 04* sludges or solid wastes containing halogenated solvents
- 14 06 05* sludges or solid wastes containing other solvents

- 15 WASTE PACKAGING; ABSORBENTS, WIPING CLOTHS, FILTER MATERIALS AND PROTECTIVE CLOTHING NOT OTHERWISE SPECIFIED
 - 15 01 packaging (including separately collected municipal packaging waste)
 - 15 01 01 paper and cardboard packaging
 - 15 01 02 plastic packaging
 - 15 01 03 wooden packaging
 - 15 01 04 metallic packaging
 - 15 01 05 composite packaging
 - 15 01 06 mixed packaging
 - 15 01 07 glass packaging
 - 15 01 09 textile packaging
 - 15 01 10* packaging containing residues of or contaminated by dangerous substances
 - 15 01 11* metallic packaging containing a dangerous solid porous matrix (e.g. asbestos), including empty pressure containers
 - 15 02 absorbents, filter materials, wiping cloths and protective clothing
 - 15 02 02* absorbents, filter materials (including oil filters not otherwise specified), wiping cloths, protective clothing contaminated by dangerous substances
 - 15 02 03 absorbents, filter materials, wiping cloths and protective clothing other than those mentioned in 15 02 02

- 16 WASTES NOT OTHERWISE SPECIFIED IN THE LIST
 - 16 01 end-of-life vehicles from different means of transport (including off-road machinery) and wastes from dismantling of end-of-life vehicles and vehicle maintenance (except 13, 14, 16 06 and 16 08)
 - 16 01 03 end-of-life tyres
 - 16 01 04* end-of-life vehicles
 - 16 01 06 end-of-life vehicles, containing neither liquids nor other hazardous components
 - 16 01 07* oil filters
 - 16 01 08* components containing mercury
 - 16 01 09* components containing PCBs
 - 16 01 10* explosive components (e.g. air bags)
 - 16 01 11* brake pads containing asbestos
 - 16 01 12 brake pads other than those mentioned in 16 01 11
 - 16 01 13* brake fluids
 - 16 01 14* antifreeze fluids containing dangerous substances
 - 16 01 15 antifreeze fluids other than those mentioned in 16 01 14
 - 16 01 16 tanks for liquefied gas
 - 16 01 17 ferrous metal
 - 16 01 18 non-ferrous metal
 - 16 01 19 plastic
 - 16 01 20 glass
 - 16 01 21* hazardous components other than those mentioned in 16 01 07 to 16 01 11 and 16 01 13 and 16 01 14
 - 16 01 22 components not otherwise specified
 - 16 01 99 wastes not otherwise specified
 - 16 02 wastes from electrical and electronic equipment
 - 16 02 09* transformers and capacitors containing PCBs
 - 16 02 10* discarded equipment containing or contaminated by PCBs other than those mentioned in 16 02 09
 - 16 02 11* discarded equipment containing chlorofluorocarbons, HCFC, HFC
 - 16 02 12* discarded equipment containing free asbestos
 - 16 02 13* discarded equipment containing hazardous components ⁽¹⁾ other than those mentioned in 16 02 09 to 16 02 12
 - 16 02 14 discarded equipment other than those mentioned in 16 02 09 to 16 02 13

⁽¹⁾ Hazardous components from electrical and electronic equipment may include accumulators and batteries mentioned in 16 06 and marked as hazardous, mercury switches, glass from cathode ray tubes and other activated glass etc.

- 16 02 15* hazardous components removed from discarded equipment
- 16 02 16 components removed from discarded equipment other than those mentioned in 16 02 15
- 16 03 off-specification batches and unused products
- 16 03 03* inorganic wastes containing dangerous substances
- 16 03 04 inorganic wastes other than those mentioned in 16 03 03
- 16 03 05* organic wastes containing dangerous substances
- 16 03 06 organic wastes other than those mentioned in 16 03 05
- 16 04 waste explosives
- 16 04 01* waste ammunition
- 16 04 02* fireworks wastes
- 16 04 03* other waste explosives
- 16 05 gases in pressure containers and discarded chemicals
- 16 05 04* gases in pressure containers (including halons) containing dangerous substances
- 16 05 05 gases in pressure containers other than those mentioned in 16 05 04
- 16 05 06* laboratory chemicals consisting of or containing dangerous substances including mixtures of laboratory chemicals
- 16 05 07* discarded inorganic chemicals consisting of or containing dangerous substances
- 16 05 08* discarded organic chemicals consisting of or containing dangerous substances
- 16 05 09 discarded chemicals other than those mentioned in 16 05 06, 16 05 07 or 16 05 08
- 16 06 batteries and accumulators
- 16 06 01* lead batteries
- 16 06 02* Ni-Cd batteries
- 16 06 03* mercury-containing batteries
- 16 06 04 alkaline batteries (except 16 06 03)
- 16 06 05 other batteries and accumulators
- 16 06 06* separately collected electrolyte from batteries and accumulators
- 16 07 wastes from transport tank, storage tank and barrel cleaning (except 05 and 13)
- 16 07 08* wastes containing oil
- 16 07 09* wastes containing other dangerous substances
- 16 07 99 wastes not otherwise specified
- 16 08 spent catalysts
- 16 08 01 spent catalysts containing gold, silver, rhenium, rhodium, palladium, iridium or platinum (except 16 08 07)
- 16 08 02* spent catalysts containing dangerous transition metals ⁽¹⁾ or dangerous transition metal compounds
- 16 08 03 spent catalysts containing transition metals or transition metal compounds not otherwise specified
- 16 08 04 spent fluid catalytic cracking catalysts (except 16 08 07)
- 16 08 05* spent catalysts containing phosphoric acid
- 16 08 06* spent liquids used as catalysts
- 16 08 07* spent catalysts contaminated with dangerous substances
- 16 09 oxidising substances
- 16 09 01* permanganates, e.g. potassium permanganate
- 16 09 02* chromates, e.g. potassium chromate, potassium or sodium dichromate
- 16 09 03* peroxides, e.g. hydrogen peroxide
- 16 09 04* oxidising substances, not otherwise specified
- 16 10 aqueous liquid wastes destined for off-site treatment
- 16 10 01* aqueous liquid wastes containing dangerous substances
- 16 10 02 aqueous liquid wastes other than those mentioned in 16 10 01
- 16 10 03* aqueous concentrates containing dangerous substances
- 16 10 04 aqueous concentrates other than those mentioned in 16 10 03
- 16 11 waste linings and refractories
- 16 11 01* carbon-based linings and refractories from metallurgical processes containing dangerous substances
- 16 11 02 carbon-based linings and refractories from metallurgical processes others than those mentioned in 16 11 01
- 16 11 03* other linings and refractories from metallurgical processes containing dangerous substances

⁽¹⁾ For the purpose of this entry, transition metals are: scandium, vanadium, manganese, cobalt, copper, yttrium, niobium, hafnium, tungsten, titanium, chromium, iron, nickel, zinc, zirconium, molybdenum and tantalum. These metals or their compounds are dangerous if they are classified as dangerous substances. The classification of dangerous substances shall determine which among those transition metals and which transition metal compounds are hazardous.

- 16 11 04 other linings and refractories from metallurgical processes other than those mentioned in 16 11 03
- 16 11 05* linings and refractories from non-metallurgical processes containing dangerous substances
- 16 11 06 linings and refractories from non-metallurgical processes others than those mentioned in 16 11 05

- 17 CONSTRUCTION AND DEMOLITION WASTES (INCLUDING EXCAVATED SOIL FROM CONTAMINATED SITES)

- 17 01 concrete, bricks, tiles and ceramics
 - 17 01 01 concrete
 - 17 01 02 bricks
 - 17 01 03 tiles and ceramics
 - 17 01 06* mixtures of, or separate fractions of concrete, bricks, tiles and ceramics containing dangerous substances
 - 17 01 07 mixtures of concrete, bricks, tiles and ceramics other than those mentioned in 17 01 06
- 17 02 wood, glass and plastic
 - 17 02 01 wood
 - 17 02 02 glass
 - 17 02 03 plastic
 - 17 02 04* glass, plastic and wood containing or contaminated with dangerous substances
- 17 03 bituminous mixtures, coal tar and tarred products
 - 17 03 01* bituminous mixtures containing coal tar
 - 17 03 02 bituminous mixtures other than those mentioned in 17 03 01
 - 17 03 03* coal tar and tarred products
- 17 04 metals (including their alloys)
 - 17 04 01 copper, bronze, brass
 - 17 04 02 aluminium
 - 17 04 03 lead
 - 17 04 04 zinc
 - 17 04 05 iron and steel
 - 17 04 06 tin
 - 17 04 07 mixed metals
 - 17 04 09* metal waste contaminated with dangerous substances
 - 17 04 10* cables containing oil, coal tar and other dangerous substances
 - 17 04 11 cables other than those mentioned in 17 04 10
- 17 05 soil (including excavated soil from contaminated sites), stones and dredging spoil
 - 17 05 03* soil and stones containing dangerous substances
 - 17 05 04 soil and stones other than those mentioned in 17 05 03
 - 17 05 05* dredging spoil containing dangerous substances
 - 17 05 06 dredging spoil other than those mentioned in 17 05 05
 - 17 05 07* track ballast containing dangerous substances
 - 17 05 08 track ballast other than those mentioned in 17 05 07
- 17 06 insulation materials and asbestos-containing construction materials
 - 17 06 01* insulation materials containing asbestos
 - 17 06 03* other insulation materials consisting of or containing dangerous substances
 - 17 06 04 insulation materials other than those mentioned in 17 06 01 and 17 06 03
 - 17 06 05* construction materials containing asbestos
- 17 08 gypsum-based construction material
 - 17 08 01* gypsum-based construction materials contaminated with dangerous substances
 - 17 08 02 gypsum-based construction materials other than those mentioned in 17 08 01
- 17 09 other construction and demolition wastes
 - 17 09 01* construction and demolition wastes containing mercury
 - 17 09 02* construction and demolition wastes containing PCB (e.g. PCB-containing sealants, PCB-containing resin-based floorings, PCB-containing sealed glazing units, PCB-containing capacitors)
 - 17 09 03* other construction and demolition wastes (including mixed wastes) containing dangerous substances
 - 17 09 04 mixed construction and demolition wastes other than those mentioned in 17 09 01, 17 09 02 and 17 09 03

- 18 WASTES FROM HUMAN OR ANIMAL HEALTH CARE AND/OR RELATED RESEARCH (EXCEPT KITCHEN AND RESTAURANT WASTES NOT ARISING FROM IMMEDIATE HEALTH CARE)
- 18 01 wastes from natal care, diagnosis, treatment or prevention of disease in humans
- 18 01 01 sharps (except 18 01 03)
- 18 01 02 body parts and organs including blood bags and blood preserves (except 18 01 03)
- 18 01 03* wastes whose collection and disposal is subject to special requirements in order to prevent infection
- 18 01 04 wastes whose collection and disposal is not subject to special requirements in order to prevent infection (e.g. dressings, plaster casts, linen, disposable clothing, diapers)
- 18 01 06* chemicals consisting of or containing dangerous substances
- 18 01 07 chemicals other than those mentioned in 18 01 06
- 18 01 08* cytotoxic and cytostatic medicines
- 18 01 09 medicines other than those mentioned in 18 01 08
- 18 01 10* amalgam waste from dental care
- 18 02 wastes from research, diagnosis, treatment or prevention of disease involving animals
- 18 02 01 sharps (except 18 02 02)
- 18 02 02* wastes whose collection and disposal is subject to special requirements in order to prevent infection
- 18 02 03 wastes whose collection and disposal is not subject to special requirements in order to prevent infection
- 18 02 05* chemicals consisting of or containing dangerous substances
- 18 02 06 chemicals other than those mentioned in 18 02 05
- 18 02 07* cytotoxic and cytostatic medicines
- 18 02 08 medicines other than those mentioned in 18 02 07
- 19 WASTES FROM WASTE MANAGEMENT FACILITIES, OFF-SITE WASTE WATER TREATMENT PLANTS AND THE PREPARATION OF WATER INTENDED FOR HUMAN CONSUMPTION AND WATER FOR INDUSTRIAL USE
- 19 01 wastes from incineration or pyrolysis of waste
- 19 01 02 ferrous materials removed from bottom ash
- 19 01 05* filter cake from gas treatment
- 19 01 06* aqueous liquid wastes from gas treatment and other aqueous liquid wastes
- 19 01 07* solid wastes from gas treatment
- 19 01 10* spent activated carbon from flue-gas treatment
- 19 01 11* bottom ash and slag containing dangerous substances
- 19 01 12 bottom ash and slag other than those mentioned in 19 01 11
- 19 01 13* fly ash containing dangerous substances
- 19 01 14 fly ash other than those mentioned in 19 01 13
- 19 01 15* boiler dust containing dangerous substances
- 19 01 16 boiler dust other than those mentioned in 19 01 15
- 19 01 17* pyrolysis wastes containing dangerous substances
- 19 01 18 pyrolysis wastes other than those mentioned in 19 01 17
- 19 01 19 sands from fluidised beds
- 19 01 99 wastes not otherwise specified
- 19 02 wastes from physico/chemical treatments of waste (including dechromatation, decyanidation, neutralisation)
- 19 02 03 premixed wastes composed only of non hazardous wastes
- 19 02 04* premixed wastes composed of at least one hazardous waste
- 19 02 05* sludges from physico/chemical treatment containing dangerous substances
- 19 02 06 sludges from physico/chemical treatment other than those mentioned in 19 02 05
- 19 02 07* oil and concentrates from separation
- 19 02 08* liquid combustible wastes containing dangerous substances
- 19 02 09* solid combustible wastes containing dangerous substances
- 19 02 10 combustible wastes other than those mentioned in 19 02 08 and 19 02 09

19 02 11*	other wastes containing dangerous substances
19 02 99	wastes not otherwise specified
19 03	stabilised/solidified wastes ⁽¹⁾
19 03 04*	wastes marked as hazardous, partly ⁽²⁾ stabilised
19 03 05	stabilised wastes other than those mentioned in 19 03 04
19 03 06*	wastes marked as hazardous, solidified
19 03 07	solidified wastes other than those mentioned in 19 03 06
19 04	vitrified waste and wastes from vitrification
19 04 01	vitrified waste
19 04 02*	fly ash and other flue-gas treatment wastes
19 04 03*	non-vitrified solid phase
19 04 04	aqueous liquid wastes from vitrified waste tempering
19 05	wastes from aerobic treatment of solid wastes
19 05 01	non-composted fraction of municipal and similar wastes
19 05 02	non-composted fraction of animal and vegetable waste
19 05 03	off-specification compost
19 05 99	wastes not otherwise specified
19 06	wastes from anaerobic treatment of waste
19 06 03	liquor from anaerobic treatment of municipal waste
19 06 04	digestate from anaerobic treatment of municipal waste
19 06 05	liquor from anaerobic treatment of animal and vegetable waste
19 06 06	digestate from anaerobic treatment of animal and vegetable waste
19 06 99	wastes not otherwise specified
19 07	landfill leachate
19 07 02*	landfill leachate containing dangerous substances
19 07 03	landfill leachate other than those mentioned in 19 07 02
19 08	wastes from waste water treatment plants not otherwise specified
19 08 01	screenings
19 08 02	waste from desanding
19 08 05	sludges from treatment of urban waste water
19 08 06*	saturated or spent ion exchange resins
19 08 07*	solutions and sludges from regeneration of ion exchangers
19 08 08*	membrane system waste containing heavy metals
19 08 09	grease and oil mixture from oil/water separation containing only edible oil and fats
19 08 10*	grease and oil mixture from oil/water separation other than those mentioned in 19 08 09
19 08 11*	sludges containing dangerous substances from biological treatment of industrial waste water
19 08 12	sludges from biological treatment of industrial waste water other than those mentioned in 19 08 11
19 08 13*	sludges containing dangerous substances from other treatment of industrial waste water
19 08 14	sludges from other treatment of industrial waste water other than those mentioned in 19 08 13
19 08 99	wastes not otherwise specified
19 09	wastes from the preparation of water intended for human consumption or water for industrial use
19 09 01	solid waste from primary filtration and screenings
19 09 02	sludges from water clarification
19 09 03	sludges from decarbonation
19 09 04	spent activated carbon
19 09 05	saturated or spent ion exchange resins
19 09 06	solutions and sludges from regeneration of ion exchangers
19 09 99	wastes not otherwise specified
19 10	wastes from shredding of metal-containing wastes
19 10 01	iron and steel waste
19 10 02	non-ferrous waste
19 10 03*	fluff — light fraction and dust containing dangerous substances
19 10 04	fluff — light fraction and dust other than those mentioned in 19 10 03
19 10 05*	other fractions containing dangerous substances

⁽¹⁾ Stabilisation processes change the dangerousness of the constituents in the waste and thus transform hazardous waste into non-hazardous waste. Solidification processes only change the physical state of the waste (e.g. liquid into solid) by using additives without changing the chemical properties of the waste.

⁽²⁾ A waste is considered as partly stabilised if after the stabilisation process dangerous constituents which have not been changed completely into non-dangerous constituents could be released into the environment in the short, middle or long term.

- 19 10 06 other fractions other than those mentioned in 19 10 05
- 19 11 wastes from oil regeneration
 - 19 11 01* spent filter clays
 - 19 11 02* acid tars
 - 19 11 03* aqueous liquid wastes
 - 19 11 04* wastes from cleaning of fuel with bases
 - 19 11 05* sludges from on-site effluent treatment containing dangerous substances
 - 19 11 06 sludges from on-site effluent treatment other than those mentioned in 19 11 05
 - 19 11 07* wastes from flue-gas cleaning
 - 19 11 99 wastes not otherwise specified
- 19 12 wastes from the mechanical treatment of waste (e.g. sorting, crushing, compacting, pelletising) not otherwise specified
 - 19 12 01 paper and cardboard
 - 19 12 02 ferrous metal
 - 19 12 03 non-ferrous metal
 - 19 12 04 plastic and rubber
 - 19 12 05 glass
 - 19 12 06* wood containing dangerous substances
 - 19 12 07 wood other than that mentioned in 19 12 06
 - 19 12 08 textiles
 - 19 12 09 minerals (e.g. sand, stones)
 - 19 12 10 combustible waste (refuse derived fuel)
 - 19 12 11* other wastes (including mixtures of materials) from mechanical treatment of waste containing dangerous substances
 - 19 12 12 other wastes (including mixtures of materials) from mechanical treatment of wastes other than those mentioned in 19 12 11
- 19 13 wastes from soil and groundwater remediation
 - 19 13 01* solid wastes from soil remediation containing dangerous substances
 - 19 13 02 solid wastes from soil remediation other than those mentioned in 19 13 01
 - 19 13 03* sludges from soil remediation containing dangerous substances
 - 19 13 04 sludges from soil remediation other than those mentioned in 19 13 03
 - 19 13 05* sludges from groundwater remediation containing dangerous substances
 - 19 13 06 sludges from groundwater remediation other than those mentioned in 19 13 05
 - 19 13 07* aqueous liquid wastes and aqueous concentrates from groundwater remediation containing dangerous substances
 - 19 13 08 aqueous liquid wastes and aqueous concentrates from groundwater remediation other than those mentioned in 19 13 07
- 20 MUNICIPAL WASTES (HOUSEHOLD WASTE AND SIMILAR COMMERCIAL, INDUSTRIAL AND INSTITUTIONAL WASTES) INCLUDING SEPARATELY COLLECTED FRACTIONS
 - 20 01 separately collected fractions (except 15 01)
 - 20 01 01 paper and cardboard
 - 20 01 02 glass
 - 20 01 08 biodegradable kitchen and canteen waste
 - 20 01 10 clothes
 - 20 01 11 textiles
 - 20 01 13* solvents
 - 20 01 14* acids
 - 20 01 15* alkalines
 - 20 01 17* photochemicals
 - 20 01 19* pesticides
 - 20 01 21* fluorescent tubes and other mercury-containing waste
 - 20 01 23* discarded equipment containing chlorofluorocarbons
 - 20 01 25 edible oil and fat
 - 20 01 26* oil and fat other than those mentioned in 20 01 25
 - 20 01 27* paint, inks, adhesives and resins containing dangerous substances
 - 20 01 28 paint, inks, adhesives and resins other than those mentioned in 20 01 27
 - 20 01 29* detergents containing dangerous substances

20 01 30	detergents other than those mentioned in 20 01 29
20 01 31*	cytotoxic and cytostatic medicines
20 01 32	medicines other than those mentioned in 20 01 31
20 01 33*	batteries and accumulators included in 16 06 01, 16 06 02 or 16 06 03 and unsorted batteries and accumulators containing these batteries
20 01 34	batteries and accumulators other than those mentioned in 20 01 33
20 01 35*	discarded electrical and electronic equipment other than those mentioned in 20 01 21 and 20 01 23 containing hazardous components ⁽¹⁾
20 01 36	discarded electrical and electronic equipment other than those mentioned in 20 01 21, 20 01 23 and 20 01 35
20 01 37*	wood containing dangerous substances
20 01 38	wood other than that mentioned in 20 01 37
20 01 39	plastics
20 01 40	metals
20 01 41	wastes from chimney sweeping
20 01 99	other fractions not otherwise specified
20 02	garden and park wastes (including cemetery waste)
20 02 01	biodegradable waste
20 02 02	soil and stones
20 02 03	other non-biodegradable wastes
20 03	other municipal wastes
20 03 01	mixed municipal waste
20 03 02	waste from markets
20 03 03	street-cleaning residues
20 03 04	septic tank sludge
20 03 06	waste from sewage cleaning
20 03 07	bulky waste
20 03 99	municipal wastes not otherwise specified

Part 3

List A (Annex II to the Basel Convention) ⁽²⁾

Y46	Waste collected from households ⁽³⁾
Y47	Residues arising from the incineration of household wastes

List B (Waste from Appendix 4, Part II of the OECD Decision) ⁽⁴⁾

Metal bearing wastes

AA 010	261900	Dross, scalings and other wastes from the manufacture of iron and steel ⁽⁵⁾
AA 060	262050	Vanadium ashes and residues ⁽⁵⁾
AA 190	810420 ex 810430	Magnesium waste and scrap that is flammable, pyrophoric or emits, upon contact with water, flammable gases in dangerous quantities

⁽¹⁾ Hazardous components from electrical and electronic equipment may include accumulators and batteries mentioned in 16 06 and marked as hazardous, mercury switches, glass from cathode ray tubes and other activated glass, etc.

⁽²⁾ This list originates from Appendix 4, Part I of the OECD Decision.

⁽³⁾ Unless appropriately classified under a single entry in Annex III.

⁽⁴⁾ The wastes numbered AB130, AC250, AC260 and AC270 have been deleted since they have been considered, in accordance with the procedure laid down in Article 18 of Council Directive 75/442/EEC of 15 July 1975 on waste (OJ L 194, 25.7.1975, p. 39. Directive as repealed by Directive 2006/12/EC), to be non-hazardous and therefore not subject to the export prohibition laid down in Article 35 of this Regulation.

⁽⁵⁾ This listing includes wastes in the form of ash, residue, slag, dross, skimming, scaling, dust, powder, sludge and cake, unless a material is expressly listed elsewhere.

Wastes containing principally inorganic constituents, which may contain metals and organic materials

AB 030		Wastes from non-cyanide based systems which arise from surface treatment of metals
AB 070		Sands used in foundry operations
AB 120	ex 281290	Inorganic halide compounds, not elsewhere specified or included
	ex 3824	
AB150	ex 382490	Unrefined calcium sulphite and calcium sulphate from flue gas desulphurisation (FGD)

Wastes containing principally organic constituents, which may contain metals and inorganic materials

AC060	ex 381900	Hydraulic fluids
AC070	ex 382000	Antifreeze fluids
AC080	ex 381900	Brake fluids
AC150		Chlorofluorocarbons
AC160		Halons
AC170	ex 440310	Treated cork and wood wastes

Wastes which may contain either inorganic or organic constituents

AD090	ex 382490	Wastes from production, formulation and use of reprographic and photographic chemicals and materials not elsewhere specified or included
AD100		Wastes from non-cyanide based systems which arise from surface treatment of plastics
AD120	ex 391400	Ion exchange resins
	ex 3915	
AD150		Naturally occurring organic material used as a filter medium (such as bio-filters)

Wastes containing principally inorganic constituents, which may contain metals and organic materials

RB020	ex 6815	Ceramic based fibres of physico-chemical characteristics similar to those of asbestos
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ANNEX VI

FORM FOR PRE-CONSENTED FACILITIES (ARTICLE 14)

Competent authority	Recovery facility				Waste identification	Period of validity		Total pre-consented quantity
	Name and number of the recovery facility	Address	Recovery operation (+ R-code)	Technologies employed	(code)	from	to	(kg/litre)

ANNEX VII

INFORMATION ACCOMPANYING SHIPMENTS OF WASTE AS REFERRED TO IN ARTICLE 3(2) AND (4)

Consignment information ⁽¹⁾

1. Person who arranges the shipment: Name: Address: Contact person: Tel.: Fax: E-mail:		2. Importer/consignee Name: Address: Contact person: Tel.: Fax: E-mail:	
3. Actual quantity: kg: litre:		4. Actual date of shipment:	
5 (a) ⁽²⁾ First carrier: Name: Address: Contact person: Tel.: Fax: E-mail: Means of transport: Date of transfer: Signature:		5 (b). Second carrier: Name: Address: Contact person: Tel.: Fax: E-mail: Means of transport: Date of transfer: Signature:	
		5 (c). Third carrier: Name: Address: Contact person: Tel.: Fax: E-mail: Means of transport: Date of transfer: Signature:	
6. Waste generator ⁽²⁾ Original producer(s), new producer(s) or collector: Name: Address: Contact person: Tel.: Fax: E-mail:		8. Recovery operation (or if appropriate disposal operation in the case of waste referred to in Article 3(4)): R-code/D code:	
		9. Usual description of the waste:	
7. Recovery facility <input type="checkbox"/> Laboratory <input type="checkbox"/> Name: Address: Contact person: Tel.: Fax: E-mail:		10. Waste identification (fill in relevant codes): (i) Basel Annex IX: (ii) OECD (if different from (i)): (iii) EC list of wastes: (iv) National code:	
11. Countries/states concerned:			
Export/dispatch		Transit	
12. Declaration of the person who arranges the shipment: I certify that the above information is complete and correct to my best knowledge. I also certify that effective written contractual obligations have been entered into with the consignee (not required in the case of waste referred to in Article 3(4)). Name: Date: Signature:			
13. Signature upon receipt of the waste by the consignee: Name: Date: Signature:			
TO BE COMPLETED BY THE RECOVERY FACILITY OR BY THE LABORATORY:			
14. Shipment received at recovery facility <input type="checkbox"/>		or laboratory <input type="checkbox"/>	
		Quantity received: kg: litre:	
Name:		Date: Signature:	

⁽¹⁾ Information accompanying shipments of green listed waste and destined for recovery or waste destined for laboratory analysis pursuant to Regulation (EC) No 1013/2006.

⁽²⁾ If more than three carriers, attach information as required in blocks 5 (a), (b) and (c).

⁽³⁾ When the person who arranges the shipment is not the producer or collector, information about the producer or collector shall be provided.

ANNEX VIII

GUIDELINES ON ENVIRONMENTALLY SOUND MANAGEMENT (ARTICLE 49)

- I. Guidelines adopted under the Basel Convention:
1. Technical Guidelines on the Environmentally Sound Management of Biomedical and Health Care Wastes (Y1; Y3) ⁽¹⁾
 2. Technical Guidelines on the Environmentally Sound Management of Waste Lead Acid Batteries ⁽¹⁾
 3. Technical Guidelines on the Environmentally Sound Management of the Full and Partial Dismantling of Ships ⁽¹⁾
 4. General Technical Guidelines for the Environmentally Sound Management of Wastes Consisting of, Containing or Contaminated with Persistent Organic Pollutants (POPs) ⁽²⁾
 5. Technical Guidelines for the Environmentally Sound Management of Wastes Consisting of, Containing or Contaminated with Polychlorinated Biphenyls (PCBs), Polychlorinated Terphenyls (PCTs) or Polybrominated Biphenyls (PBBs) ⁽²⁾
 6. Technical Guidelines on the Environmentally Sound Recycling/Reclamation of Metals and Metal Compounds (R4) ⁽²⁾
- II. Guidelines adopted by the OECD:
- Technical guidance for the environmentally sound management of specific waste streams:
- Used and scrap personal computers ⁽³⁾
- III. Guidelines adopted by the International Maritime Organisation (IMO) Guidelines on ship recycling ⁽⁴⁾
- IV. Guidelines adopted by the International Labour Organisation (ILO): Safety and health in shipbreaking: guidelines for Asian countries and Turkey ⁽⁵⁾

⁽¹⁾ Adopted by the sixth meeting of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Waste and Their Disposal, 9 to 13 December 2002.

⁽²⁾ Adopted by the seventh meeting of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, 25 to 29 October 2004.

⁽³⁾ Adopted by the Environment Policy Committee of the OECD in February 2003 (document ENV/EPOC/WGWPR(2001)3/FINAL).

⁽⁴⁾ Resolution A.962 adopted by the Assembly of the IMO at its 23rd Regular session, 24 November to 5 December 2003.

⁽⁵⁾ Approved for publication by the Governing Body of the ILO at its 289th session, 11 to 26 March 2004.

ANNEX IX

ADDITIONAL QUESTIONNAIRE FOR REPORTS BY MEMBER STATES PURSUANT TO ARTICLE 51(2)

<p>Article 11(1)(a)</p>	<p>Information on the measures taken to prohibit generally or partially shipments of waste between Member States In order to implement the principles of proximity, priority for recovery and self-sufficiency at Community and national levels in accordance with Directive 2006/12/EC</p> <p>Has this provision been applied? Yes No <i>(please tick ✓ as appropriate)</i> <input type="checkbox"/> <input type="checkbox"/></p> <p>If yes, please provide details of the measures taken: </p> <p>Additional remarks: </p> <p>Information on the measures taken to object systematically to shipments of waste between Member States In order to implement the principles of proximity, priority for recovery and self-sufficiency at Community and national levels in accordance with Directive 2006/12/EC</p> <p>Has this provision been applied? Yes No <i>(please tick ✓ as appropriate)</i> <input type="checkbox"/> <input type="checkbox"/></p> <p>If yes, please provide details of the measures taken: </p> <p>Additional remarks: </p>
<p>Article 11(1)(e)</p>	<p>Information on the prohibition of the import of waste</p> <p>Has this provision been applied? Yes No <i>(please tick ✓ as appropriate)</i> <input type="checkbox"/> <input type="checkbox"/></p> <p>If yes, please provide details of the measures taken: </p>

<p>Article 33</p>	<p>Information on the Member States' system for the supervision and control of shipments of waste exclusively within their jurisdiction</p> <p>Is there a system for the supervision and control of shipments of waste within the jurisdiction?</p> <p style="text-align: right;">Yes No</p> <p>(please tick ✓ as appropriate) <input type="checkbox"/> <input type="checkbox"/></p> <p>If there is such a system, do you apply the system provided for in Titles II and VII of the Regulation?</p> <p style="text-align: right;">Yes No</p> <p>(please tick ✓ as appropriate) <input type="checkbox"/> <input type="checkbox"/></p> <p>If you apply a different system from that provided for in Titles II and VII of the Regulation, please give details of the system applied:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p>Article 24 and Article 50(1)</p>	<p>Information on illegal shipments of waste</p> <p>Has there been any case?</p> <p style="text-align: right;">Yes No</p> <p>(please tick ✓ as appropriate) <input type="checkbox"/> <input type="checkbox"/></p> <p>If yes, please complete Table 5.</p> <p>Please provide information on how illegal shipments of waste are prevented, detected and penalised under national legislation:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p>Article 50(2)</p>	<p>Information on spot checks on shipments of waste or on the related recovery or disposal</p> <p>Number of checks on shipments of waste or on the related recovery or disposal:</p> <p>Number of supposed illegal shipments ascertained during these checks:</p> <p>Additional remarks:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p>Article 6</p>	<p>Information on a financial guarantee or equivalent insurance covering costs for transport, recovery or disposal and storage of waste, including cases referred to in Articles 22 and 24</p> <p>Please provide details on the provisions of national law adopted pursuant to this Article:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p>Article 55</p>	<p>Information on any customs offices designated by Member States for shipments of waste entering and leaving the Community</p> <p>Has there been any designation?</p> <p style="text-align: right;">Yes No</p> <p>(please tick ✓ as appropriate) <input type="checkbox"/> <input type="checkbox"/></p> <p>If yes, please complete Table 6.</p>

Note for completion of the tables:

D codes and R codes are those referred to in Annexes IIA and IIB to Directive 2006/12/EC.
 Waste identification codes are those referred to in Annexes III, IIIA, IIIB, IV and IVA to this Regulation.

Table 1

Information on exceptions to the implementation of the principles of proximity, priority for recovery and self-sufficiency (Article 11(3))

Waste identification (code)	Quantity (kg/litres)	Country of destination (De)/ country of dispatch (Di)	Disposal operation D code	Referral of the matter to the Commission (Yes/No)

Table 2

Objections to planned shipments or disposal (Article 11(1)(g))

Waste identification (code)	Quantity (kg/litres)	Country of transit (T)/ country of dispatch (Di)	Reasons for the objection (please tick ✓ as appropriate)			Inrichting	
			Article 11(1)(g)(i)	Article 11(1)(g)(ii)	Article 11(1)(g)(iii)	Name (in case of Article 11(1)(g)(ii))	Disposal operation D code

Table 4

Information on decisions by competent authorities to issue pre-consents (Article 14)

Competent authority	Recovery facility				Waste identification (code)	Period of validity		Revocation (date)
	Name and No	Address	Recovery operation R code	Technologies employed		From	To	

Table 5

Information on illegal shipments of waste ^(*)(Article 24 and Article 50(1))

Waste identification (code)	Quantity (kg/litres)	Country of destination (De) and country of dispatch (Di)	Identification of the reason for illegality (possible reference to violated Articles)	Responsible for illegality <i>(please tick ✓ as appropriate)</i>			Measures taken including possible penalties
				Notifier	Consignee	Other	

^(*) Information on cases which have been closed during the reporting period.

Table 6

Information on any specific customs offices designated by Member States for shipments of waste entering and leaving the Community (Article 55)

Customs office		
Office	Location	Import/export countries controlled

Directives

Secondary Legislation

- **Directives**

- **DIRECTIVE No 70/2011/Euratom** of the Council of 19 July 2011 on establishing a Community framework for the responsible and safe management of spent fuel and radioactive waste
- **DIRECTIVE No 71/2009/Euratom** of the Council of 25 June 2009 on establishing a Community framework for the nuclear safety of nuclear installations
- **DIRECTIVE No 87/2014/Euratom** of the Council of 8 July 2014 amending Directive No 71/2009/Euratom establishing a Community framework for the nuclear safety of nuclear installations
- **DIRECTIVE No 117/2006/Euratom** of the Council of 20 November 2006 on the supervision and control of shipments of radioactive waste and spent fuel
- **DIRECTIVE No 122/2003/Euratom** of the Council of 22 December 2003 on the control of high-activity sealed radioactive sources and orphan sources
- **DIRECTIVE No 29/1996/Euratom** of the Council of 13 May 1996 on laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation
- **DIRECTIVE No 59/2013/Euratom** of the Council of 5 December 2013 on laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom

DIRECTIVES

COUNCIL DIRECTIVE 2011/70/EURATOM

of 19 July 2011

establishing a Community framework for the responsible and safe management of spent fuel and radioactive waste

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Articles 31 and 32 thereof,

Having regard to the proposal from the European Commission, drawn up after obtaining the opinion of a group of persons appointed by the Scientific and Technical Committee from among scientific experts in the Member States,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Whereas:

- (1) Article 2(b) of the Treaty establishing the European Atomic Energy Community ('Euratom Treaty') provides for the establishment of uniform safety standards to protect the health of workers and of the general public.
- (2) Article 30 of the Euratom Treaty provides for the establishment of basic standards for the protection of the health of workers and the general public against the dangers arising from ionising radiations.
- (3) Article 37 of the Euratom Treaty requires Member States to provide the Commission with general data relating to any plan for the disposal of radioactive waste.
- (4) Council Directive 96/29/Euratom ⁽³⁾ establishes basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation. That Directive has been supplemented by more specific legislation.
- (5) As recognised by the Court of Justice of the European Union in its case-law, the provisions of Chapter 3 of the

Euratom Treaty, on health and safety, form a coherent whole conferring upon the Commission powers of some considerable scope in order to protect the population and the environment against the risks of nuclear contamination ⁽⁴⁾.

- (6) Council Decision 87/600/Euratom of 14 December 1987 on Community arrangements for the early exchange of information in the event of a radiological emergency ⁽⁵⁾ established a framework for notification and provision of information to be used by the Member States in order to protect the general public in case of a radiological emergency. Council Directive 89/618/Euratom of 27 November 1989 on informing the general public about health protection measures to be applied and steps to be taken in the event of a radiological emergency ⁽⁶⁾ imposed obligations on the Member States to inform the general public in the event of a radiological emergency.
- (7) Council Directive 2003/122/Euratom ⁽⁷⁾ provides for the control of high-activity sealed radioactive sources and orphan sources, including disused sources. In accordance with the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management ('the Joint Convention') and the International Atomic Energy Agency (IAEA) Code of Conduct on the Safety and Security of Radioactive Sources, and current industrial practices, disused sealed sources can be reused, recycled or disposed of. In many cases, this needs a return of the source or return of the equipment, including the source, to a supplier or a manufacturer, for requalification or processing.
- (8) Directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006 on the management of waste from extractive industries ⁽⁸⁾ covers the management of waste from extractive industries which may be radioactive, but excluding such aspects as are specific to radioactivity, which are matters dealt with under the Euratom Treaty.

⁽⁴⁾ C-187/87 (1988 ECR p.5013) and C-29/99 (2002 ECR p. I-11221).

⁽⁵⁾ OJ L 371, 30.12.1987, p. 76.

⁽⁶⁾ OJ L 357, 7.12.1989, p. 31.

⁽⁷⁾ OJ L 346, 31.12.2003, p. 57.

⁽⁸⁾ OJ L 102, 11.4.2006, p. 15.

⁽¹⁾ Opinion of 4 May 2011 (not yet published in the Official Journal).

⁽²⁾ Opinion of 23 June 2011 (not yet published in the Official Journal).

⁽³⁾ OJ L 159, 29.6.1996, p. 1.

- (9) Council Directive 2006/117/Euratom⁽¹⁾ lays down a European Atomic Energy Community ('Community') system of supervision and control of transboundary shipments of radioactive waste and spent fuel. That Directive was supplemented by Commission Recommendation 2008/956/Euratom of 4 December 2008 on criteria for the export of radioactive waste and spent fuel to third countries⁽²⁾.
- (10) Council Directive 2009/71/Euratom of 25 June 2009 establishing a Community framework for the nuclear safety of nuclear installations⁽³⁾ imposes obligations on the Member States to establish and maintain a national framework for nuclear safety. While that Directive concerns principally the nuclear safety of nuclear installations, it states that it is also important to ensure the safe management of spent fuel and radioactive waste, including at storage and disposal facilities. Therefore, those facilities, addressed both in Directive 2009/71/Euratom and in this Directive, should not be subject to disproportionate or unnecessary obligations, especially as regards reporting.
- (11) Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment⁽⁴⁾ applies to certain plans and programmes within the scope of Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment⁽⁵⁾.
- (12) Commission Recommendation 2006/851/Euratom of 24 October 2006 on the management of the financial resources for the decommissioning of nuclear installations, spent fuel and radioactive waste⁽⁶⁾ focuses on the adequacy of funding, its financial security and its transparency in order to ensure that the funds are only used for the intended purposes.
- (13) Under the specific terms of accession of Lithuania, Slovakia and Bulgaria to the European Union, where certain nuclear power plants were subject to early shutdown, the Community has taken part in the raising of financial resources and provides financial support subject to certain conditions to various decommissioning projects, including management of radioactive waste and spent fuel.
- (14) The Joint Convention, concluded under the auspices of the IAEA, represents an incentive instrument which aims at achieving and maintaining a high level of safety worldwide in spent fuel and radioactive waste management through the enhancement of national measures and international cooperation.
- (15) Some Member States have already participated and intend to participate further in the US-Russian driven programme, called the Global Threat Reduction Initiative, by shipping the spent fuel of research reactors to the United States of America and to the Russian Federation.
- (16) In 2006, the IAEA updated the structure of standards and published the Fundamental Safety Principles, which were jointly sponsored by the Community, the Organisation for Economic Cooperation and Development/Nuclear Energy Agency and other international organisations. Applying the Fundamental Safety Principles will facilitate the application of international safety standards and will make for greater consistency between the arrangements of different states.
- (17) Following the Council's invitation to set up a High Level Group at EU level, as recorded in its Conclusions of 8 May 2007 on Nuclear Safety and Safe Management of Spent Nuclear Fuel and Radioactive Waste, the European Nuclear Safety Regulators Group (ENSREG) was set up by Commission Decision 2007/530/Euratom of 17 July 2007 on establishing the European High Level Group on Nuclear Safety and Waste Management⁽⁷⁾ to contribute to the achievement of the Community objectives in the field of spent fuel and radioactive waste management. The conclusions and recommendations of ENSREG were reflected in the Council Resolution of 16 December 2008 on Spent Fuel and Radioactive Waste Management and the Council Conclusions of 10 November 2009 on the report by the European Nuclear Safety Regulators Group.
- (18) The European Parliament adopted on 10 May 2007 a Resolution 'Assessing Euratom – 50 Years of European nuclear energy policy' where it called for harmonised standards for radioactive waste management and invited the Commission to review the relevant drafts of its legislative proposal and submit a new proposal for a directive on radioactive waste management.
- (19) While each Member State remains free to define its energy mix, all Member States generate radioactive waste from power generation or in the course of industrial, agricultural, medical and research activities, or through decommissioning of nuclear facilities or in situations of remediation and interventions.

(1) OJ L 337, 5.12.2006, p. 21.

(2) OJ L 338, 17.12.2008, p. 69.

(3) OJ L 172, 2.7.2009, p. 18.

(4) OJ L 156, 25.6.2003, p. 17.

(5) OJ L 197, 21.7.2001, p. 30.

(6) OJ L 330, 28.11.2006, p. 31.

(7) OJ L 195, 17.7.2007, p. 44.

- (20) The operation of nuclear reactors generates spent fuel. Each Member State remains free to define its fuel cycle policy. The spent fuel can be regarded either as a valuable resource that may be reprocessed or as radioactive waste that is destined for direct disposal. Whatever option is chosen, the disposal of high-level waste, separated at reprocessing, or of spent fuel regarded as waste should be considered.
- (21) Radioactive waste, including spent fuel considered as waste, requires containment and isolation from humans and the living environment over the long term. Its specific nature, namely that it contains radionuclides, requires arrangements to protect human health and the environment against dangers arising from ionising radiation, including disposal in appropriate facilities as the end location point. The storage of radioactive waste, including long-term storage, is an interim solution, but not an alternative to disposal.
- (22) A national radioactive waste classification scheme should support those arrangements, taking fully into account the specific types and properties of radioactive waste.
- (23) The typical disposal concept for low and intermediate-level waste is near-surface disposal. It is broadly accepted at the technical level that, at this time, deep geological disposal represents the safest and most sustainable option as the end point of the management of high-level waste and spent fuel considered as waste. Member States, while retaining responsibility for their respective policies in respect of the management of their spent fuel and low, intermediate or high-level radioactive waste, should include planning and implementation of disposal options in their national policies. Since the implementation and development of a disposal facility will take place over many decades, many programmes recognise the necessity of remaining flexible and adaptable, e.g. in order to incorporate new knowledge about site conditions or the possible evolution of the disposal system. The activities conducted under the Implementing Geological Disposal of Radioactive Waste Technology Platform (IGD-TP) could facilitate access to expertise and technology in this respect. To that end, reversibility and retrievability as operating and design criteria may be used to guide the technical development of a disposal system. However, those criteria should not be a substitute for a well designed disposal facility that has a defensible basis for closure. A compromise is needed as the management of radioactive waste and spent fuel is based on state-of-the-art science and technology.
- (24) It should be an ethical obligation of each Member State to avoid any undue burden on future generations in respect of spent fuel and radioactive waste including any radioactive waste expected from decommissioning of existing nuclear installations. Through the implementation of this Directive Member States will have demonstrated that they have taken reasonable steps to ensure that that objective is met.
- (25) The ultimate responsibility of Member States for the safety of spent fuel and radioactive waste management is a fundamental principle reaffirmed by the Joint Convention. That principle of national responsibility, as well as the principle of prime responsibility of the licence holder for the safety of spent fuel and radioactive waste management under the supervision of its competent regulatory authority, should be enhanced and the role and independence of the competent regulatory authority should be reinforced by this Directive.
- (26) It is understood that the utilisation of radioactive sources by a competent regulatory authority for the purpose of carrying out its regulatory tasks does not affect its independence.
- (27) Member States should ensure that adequate funding is available for the management of spent fuel and radioactive waste.
- (28) Member States should establish national programmes to ensure the transposition of political decisions into clear provisions for the timely implementation of all steps of spent fuel and radioactive waste management from generation to disposal. It should be possible for such national programmes to be in the form of a single reference document or a set of documents.
- (29) It is understood that national arrangements for the safety of spent fuel and radioactive waste management will be applied through some form of legal, regulatory or organisational instrument, the choice of which rests within the competence of the Member States.
- (30) The different steps in spent fuel and radioactive waste management are closely interrelated. Decisions taken in one individual step may affect a subsequent step. Therefore such interdependencies should be taken into account when developing national programmes.
- (31) Transparency is important in the management of spent fuel and radioactive waste. Transparency should be provided by ensuring effective public information and opportunities for all stakeholders concerned, including local authorities and the public, to participate in the decision-making processes in accordance with national and international obligations.
- (32) Cooperation between Member States and at an international level could facilitate and accelerate decision-making through access to expertise and technology.

- (33) Some Member States consider that the sharing of facilities for spent fuel and radioactive waste management, including disposal facilities, is a potentially beneficial, safe and cost-effective option when based on an agreement between the Member States concerned.
- (34) The documentation of the decision-making process as it relates to safety should be commensurate with the levels of risk (graded approach) and should provide a basis for decisions related to the management of spent fuel and radioactive waste. This should enable the identification of areas of uncertainty on which attention needs to be focused in an assessment of safety. Safety decisions should be based on the findings of an assessment of safety and information on the robustness and reliability of that assessment and the assumptions made therein. The decision-making process should therefore be based on a collection of arguments and evidence that seek to demonstrate that the required standard of safety is achieved for a facility or activity related to the management of spent fuel and radioactive waste. In the particular case of a disposal facility, the documentation should improve understanding of those aspects influencing the safety of the disposal system, including natural (geological) and engineered barriers, and the expected development of the disposal system over time.
- (35) A Member State which has no spent fuel, no immediate prospect of having spent fuel and no present or planned activities related to spent fuel, would be under a disproportionate and unnecessary obligation if it had to transpose and implement the provisions of this Directive with regard to spent fuel. Therefore, such Member States should be exempted, for as long as they have not taken a decision to develop any activity related to nuclear fuel, from the obligation to transpose and implement the provisions related to spent fuel of this Directive.
- (36) A Treaty between the government of the Republic of Slovenia and the government of the Republic of Croatia on the regulation of the status and other legal relations regarding investment, exploitation and decommissioning of the Krško nuclear power plant governs the co-ownership of a nuclear power plant. That Treaty provides for shared responsibility for the management and disposal of radioactive waste and spent fuel. Therefore an exemption to certain provisions of this Directive should be laid down in order not to hinder the full implementation of that bilateral Treaty.
- (37) While recognising that radiological and non-radiological hazards associated with spent fuel and radioactive waste should be taken into account in the national framework, this Directive does not cover non-radiological hazards, which fall under the Treaty on the Functioning of the European Union.
- (38) Maintenance and further development of competences and skills in the management of spent fuel and radio-

active waste, as an essential element to ensure high levels of safety, should be based on learning through operational experience.

- (39) Scientific research and technological development supported by technical cooperation between actors may open horizons to improve the safe management of spent fuel and radioactive waste, as well as contribute to reducing the risk of the radiotoxicity of high-level waste.
- (40) Peer review could serve as an excellent means of building confidence and trust in the management of radioactive waste and spent fuel in the European Union, with the aim of developing and exchanging experience and ensuring high standards,

HAS ADOPTED THIS DIRECTIVE:

CHAPTER 1

SCOPE, DEFINITIONS AND GENERAL PRINCIPLES

Article 1

Subject-matter

1. This Directive establishes a Community framework for ensuring responsible and safe management of spent fuel and radioactive waste to avoid imposing undue burdens on future generations.
2. It ensures that Member States provide for appropriate national arrangements for a high level of safety in spent fuel and radioactive waste management to protect workers and the general public against the dangers arising from ionising radiation.
3. It ensures the provision of necessary public information and participation in relation to spent fuel and radioactive waste management while having due regard to security and proprietary information issues.
4. Without prejudice to Directive 96/29/Euratom, this Directive supplements the basic standards referred to in Article 30 of the Euratom Treaty as regards the safety of spent fuel and radioactive waste.

Article 2

Scope

1. This Directive shall apply to all stages of:
 - (a) spent fuel management when the spent fuel results from civilian activities;
 - (b) radioactive waste management, from generation to disposal, when the radioactive waste results from civilian activities.
2. This Directive shall not apply to:
 - (a) waste from extractive industries which may be radioactive and which falls within the scope of Directive 2006/21/EC;
 - (b) authorised releases.

3. Article 4(4) of this Directive shall not apply to:

- (a) repatriation of disused sealed sources to a supplier or manufacturer;
- (b) shipment of spent fuel of research reactors to a country where research reactor fuels are supplied or manufactured, taking into account applicable international agreements;
- (c) the waste and spent fuel of the existing Krško nuclear power plant, when it concerns shipments between Slovenia and Croatia.

4. This Directive shall not affect the right of a Member State or an undertaking in that Member State to return radioactive waste after processing to its country of origin where:

- (a) the radioactive waste is to be shipped to that Member State or undertaking for processing; or
- (b) other material is to be shipped to that Member State or undertaking with the purpose of recovering the radioactive waste.

This Directive shall not affect the right of a Member State or an undertaking in that Member State to which spent fuel is to be shipped for treatment or reprocessing to return to its country of origin radioactive waste recovered from the treatment or reprocessing operation, or an agreed equivalent.

Article 3

Definitions

For the purpose of this Directive the following definitions shall apply:

- (1) 'closure' means the completion of all operations at some time after the emplacement of spent fuel or radioactive waste in a disposal facility, including the final engineering or other work required to bring the facility to a condition that will be safe in the long term;
- (2) 'competent regulatory authority' means an authority or a system of authorities designated in a Member State in the field of regulation of the safety of spent fuel or radioactive waste management as referred to in Article 6;
- (3) 'disposal' means the emplacement of spent fuel or radioactive waste in a facility without the intention of retrieval;
- (4) 'disposal facility' means any facility or installation the primary purpose of which is radioactive waste disposal;
- (5) 'licence' means any legal document granted under the jurisdiction of a Member State to carry out any activity related to the management of spent fuel or radioactive waste, or to confer responsibility for siting, design, construction, commissioning, operation, decommissioning or closure of a spent fuel management facility or of a radioactive waste management facility;
- (6) 'licence holder' means a legal or natural person having overall responsibility for any activity or facility related to the management of spent fuel or radioactive waste as specified in a licence;
- (7) 'radioactive waste' means radioactive material in gaseous, liquid or solid form for which no further use is foreseen or considered by the Member State or by a legal or natural person whose decision is accepted by the Member State, and which is regulated as radioactive waste by a competent regulatory authority under the legislative and regulatory framework of the Member State;
- (8) 'radioactive waste management' means all activities that relate to handling, pretreatment, treatment, conditioning, storage, or disposal of radioactive waste, excluding off-site transportation;
- (9) 'radioactive waste management facility' means any facility or installation the primary purpose of which is radioactive waste management;
- (10) 'reprocessing' means a process or operation, the purpose of which is to extract fissile and fertile materials from spent fuel for further use;
- (11) 'spent fuel' means nuclear fuel that has been irradiated in and permanently removed from a reactor core; spent fuel may either be considered as a usable resource that can be reprocessed or be destined for disposal if regarded as radioactive waste;
- (12) 'spent fuel management' means all activities that relate to the handling, storage, reprocessing, or disposal of spent fuel, excluding off-site transportation;
- (13) 'spent fuel management facility' means any facility or installation the primary purpose of which is spent fuel management;
- (14) 'storage' means the holding of spent fuel or of radioactive waste in a facility with the intention of retrieval.

Article 4

General principles

1. Member States shall establish and maintain national policies on spent fuel and radioactive waste management. Without prejudice to Article 2(3), each Member State shall have ultimate responsibility for management of the spent fuel and radioactive waste generated in it.

2. Where radioactive waste or spent fuel is shipped for processing or reprocessing to a Member State or a third country, the ultimate responsibility for the safe and responsible disposal of those materials, including any waste as a by-product, shall remain with the Member State or third country from which the radioactive material was shipped.

3. National policies shall be based on all of the following principles:

- (a) the generation of radioactive waste shall be kept to the minimum which is reasonably practicable, both in terms of activity and volume, by means of appropriate design measures and of operating and decommissioning practices, including the recycling and reuse of materials;
- (b) the interdependencies between all steps in spent fuel and radioactive waste generation and management shall be taken into account;
- (c) spent fuel and radioactive waste shall be safely managed, including in the long term with passive safety features;
- (d) implementation of measures shall follow a graded approach;
- (e) the costs for the management of spent fuel and radioactive waste shall be borne by those who generated those materials;
- (f) an evidence-based and documented decision-making process shall be applied with regard to all stages of the management of spent fuel and radioactive waste.

4. Radioactive waste shall be disposed of in the Member State in which it was generated, unless at the time of shipment an agreement, taking into account the criteria established by the Commission in accordance with Article 16(2) of Directive 2006/117/Euratom, has entered into force between the Member State concerned and another Member State or a third country to use a disposal facility in one of them.

Prior to a shipment to a third country, the exporting Member State shall inform the Commission of the content of any such agreement and take reasonable measures to be assured that:

- (a) the country of destination has concluded an agreement with the Community covering spent fuel and radioactive waste management or is a party to the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management ('the Joint Convention');
- (b) the country of destination has radioactive waste management and disposal programmes with objectives representing a high level of safety equivalent to those established by this Directive; and
- (c) the disposal facility in the country of destination is authorised for the radioactive waste to be shipped, is operating prior to the shipment, and is managed in accordance with

the requirements set down in the radioactive waste management and disposal programme of that country of destination.

CHAPTER 2

OBLIGATIONS

Article 5

National framework

1. Member States shall establish and maintain a national legislative, regulatory and organisational framework ('national framework') for spent fuel and radioactive waste management that allocates responsibility and provides for coordination between relevant competent bodies. The national framework shall provide for all of the following:

- (a) a national programme for the implementation of spent fuel and radioactive waste management policy;
- (b) national arrangements for the safety of spent fuel and radioactive waste management. The determination of how those arrangements are to be adopted and through which instrument they are to be applied rests within the competence of the Member States;
- (c) a system of licensing of spent fuel and radioactive waste management activities, facilities or both, including the prohibition of spent fuel or radioactive waste management activities, of the operation of a spent fuel or radioactive waste management facility without a licence or both and, if appropriate, prescribing conditions for further management of the activity, facility or both;
- (d) a system of appropriate control, a management system, regulatory inspections, documentation and reporting obligations for radioactive waste and spent fuel management activities, facilities or both, including appropriate measures for the post-closure periods of disposal facilities;
- (e) enforcement actions, including the suspension of activities and the modification, expiration or revocation of a licence together with requirements, if appropriate, for alternative solutions that lead to improved safety;
- (f) the allocation of responsibility to the bodies involved in the different steps of spent fuel and radioactive waste management; in particular, the national framework shall give primary responsibility for the spent fuel and radioactive waste to their generators or, under specific circumstances, to a licence holder to whom this responsibility has been entrusted by competent bodies;
- (g) national requirements for public information and participation;
- (h) the financing scheme(s) for spent fuel and radioactive waste management in accordance with Article 9.

2. Member States shall ensure that the national framework is improved where appropriate, taking into account operating experience, insights gained from the decision-making process referred to in Article 4(3)(f), and the development of relevant technology and research.

Article 6

Competent regulatory authority

1. Each Member State shall establish and maintain a competent regulatory authority in the field of safety of spent fuel and radioactive waste management.

2. Member States shall ensure that the competent regulatory authority is functionally separate from any other body or organisation concerned with the promotion or utilisation of nuclear energy or radioactive material, including electricity production and radioisotope applications, or with the management of spent fuel and radioactive waste, in order to ensure effective independence from undue influence on its regulatory function.

3. Member States shall ensure that the competent regulatory authority is given the legal powers and human and financial resources necessary to fulfil its obligations in connection with the national framework as described in Article 5(1)(b), (c), (d) and (e).

Article 7

Licence holders

1. Member States shall ensure that the prime responsibility for the safety of spent fuel and radioactive waste management facilities and/or activities rest with the licence holder. That responsibility can not be delegated.

2. Member States shall ensure that the national framework in place require licence holders, under the regulatory control of the competent regulatory authority, to regularly assess, verify and continuously improve, as far as is reasonably achievable, the safety of the radioactive waste and spent fuel management facility or activity in a systematic and verifiable manner. This shall be achieved through an appropriate safety assessment, other arguments and evidence.

3. As part of the licensing of a facility or activity the safety demonstration shall cover the development and operation of an activity and the development, operation and decommissioning of a facility or closure of a disposal facility as well as the post-closure phase of a disposal facility. The extent of the safety demonstration shall be commensurate with the complexity of the operation and the magnitude of the hazards associated with the radioactive waste and spent fuel, and the facility or activity. The licensing process shall contribute to safety in the facility or activity during normal operating conditions, anticipated operational occurrences and design basis accidents. It shall provide the required assurance of safety in the facility or activity. Measures shall be in place to prevent accidents and mitigate the consequences of accidents, including verification of

physical barriers and the licence holder's administrative protection procedures that would have to fail before workers and the general public would be significantly affected by ionising radiation. That approach shall identify and reduce uncertainties.

4. Member States shall ensure that the national framework require licence holders to establish and implement integrated management systems, including quality assurance, which give due priority for overall management of spent fuel and radioactive waste to safety and are regularly verified by the competent regulatory authority.

5. Member States shall ensure that the national framework require licence holders to provide for and maintain adequate financial and human resources to fulfil their obligations with respect to the safety of spent fuel and radioactive waste management as laid down in paragraphs 1 to 4.

Article 8

Expertise and skills

Member States shall ensure that the national framework require all parties to make arrangements for education and training for their staff, as well as research and development activities to cover the needs of the national programme for spent fuel and radioactive waste management in order to obtain, maintain and to further develop necessary expertise and skills.

Article 9

Financial resources

Member States shall ensure that the national framework require that adequate financial resources be available when needed for the implementation of national programmes referred to in Article 11, especially for the management of spent fuel and radioactive waste, taking due account of the responsibility of spent fuel and radioactive waste generators.

Article 10

Transparency

1. Member States shall ensure that necessary information on the management of spent fuel and radioactive waste be made available to workers and the general public. This obligation includes ensuring that the competent regulatory authority inform the public in the fields of its competence. Information shall be made available to the public in accordance with national legislation and international obligations, provided that this does not jeopardise other interests such as, inter alia, security, recognised in national legislation or international obligations.

2. Member States shall ensure that the public be given the necessary opportunities to participate effectively in the decision-making process regarding spent fuel and radioactive waste management in accordance with national legislation and international obligations.

*Article 11***National programmes**

1. Each Member State shall ensure the implementation of its national programme for the management of spent fuel and radioactive waste ('national programme'), covering all types of spent fuel and radioactive waste under its jurisdiction and all stages of spent fuel and radioactive waste management from generation to disposal.

2. Each Member State shall regularly review and update its national programme, taking into account technical and scientific progress as appropriate as well as recommendations, lessons learned and good practices from peer reviews.

*Article 12***Contents of national programmes**

1. The national programmes shall set out how the Member States intend to implement their national policies referred to in Article 4 for the responsible and safe management of spent fuel and radioactive waste to secure the aims of this Directive, and shall include all of the following:

- (a) the overall objectives of the Member State's national policy in respect of spent fuel and radioactive waste management;
- (b) the significant milestones and clear timeframes for the achievement of those milestones in light of the overarching objectives of the national programme;
- (c) an inventory of all spent fuel and radioactive waste and estimates for future quantities, including those from decommissioning, clearly indicating the location and amount of the radioactive waste and spent fuel in accordance with appropriate classification of the radioactive waste;
- (d) the concepts or plans and technical solutions for spent fuel and radioactive waste management from generation to disposal;
- (e) the concepts or plans for the post-closure period of a disposal facility's lifetime, including the period during which appropriate controls are retained and the means to be employed to preserve knowledge of that facility in the longer term;
- (f) the research, development and demonstration activities that are needed in order to implement solutions for the management of spent fuel and radioactive waste;
- (g) the responsibility for the implementation of the national programme and the key performance indicators to monitor progress towards implementation;

(h) an assessment of the national programme costs and the underlying basis and hypotheses for that assessment, which must include a profile over time;

(i) the financing scheme(s) in force;

(j) a transparency policy or process as referred to in Article 10;

(k) if any, the agreement(s) concluded with a Member State or a third country on management of spent fuel or radioactive waste, including on the use of disposal facilities.

2. The national programme together with the national policy may be contained in a single document or in a number of documents.

*Article 13***Notification**

1. Member States shall notify to the Commission their national programmes and any subsequent significant changes.

2. Within 6 months of the date of notification, the Commission may request clarification and/or express its opinion on whether the content of the national programme is in accordance with Article 12.

3. Within 6 months of receiving the Commission's reaction Member States shall provide the requested clarification and/or inform the Commission of any revision of the national programmes.

4. The Commission, when deciding on the provision of Community financial or technical assistance for spent fuel and radioactive waste management facilities or activities, shall take into account the Member States' clarifications and progress regarding the national programmes.

*Article 14***Reporting**

1. Member States shall submit a report to the Commission on the implementation of this Directive for the first time by 23 August 2015, and every 3 years thereafter, taking advantage of the review and reporting under the Joint Convention.

2. On the basis of the Member States' reports, the Commission shall submit to the European Parliament and the Council the following:

(a) a report on progress made with the implementation of this Directive; and

(b) an inventory of radioactive waste and spent fuel present in the Community's territory and the future prospects.

3. Member States shall periodically, and at least every 10 years, arrange for self-assessments of their national framework, competent regulatory authority, national programme and its implementation, and invite international peer review of their national framework, competent regulatory authority and/or national programme with the aim of ensuring that high safety standards are achieved in the safe management of spent fuel and radioactive waste. The outcomes of any peer review shall be reported to the Commission and the other Member States, and may be made available to the public where there is no conflict with security and proprietary information.

CHAPTER 3

FINAL PROVISIONS

Article 15

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 23 August 2013. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. The obligations for transposition and implementation of provisions related to spent fuel of this Directive shall not apply

to Cyprus, Denmark, Estonia, Ireland, Latvia, Luxembourg and Malta for as long as they decide not to develop any activity related to nuclear fuel.

3. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive and of any subsequent amendments to those provisions.

4. Member States shall for the first time notify to the Commission the content of their national programme covering all the items provided for in Article 12 as soon as possible, but not later than 23 August 2015.

Article 16

Entry into force

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

Article 17

Addressees

This Directive is addressed to the Member States.

Done at Brussels, 19 July 2011.

For the Council
The President
M. SAWICKI

DIRECTIVES

COUNCIL DIRECTIVE 2009/71/EURATOM

of 25 June 2009

establishing a Community framework for the nuclear safety of nuclear installations

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Articles 31 and 32 thereof,

Having regard to the proposal from the Commission, drawn up after obtaining the opinion of a group of persons appointed by the Scientific and Technical Committee from among scientific experts in the Member States, and after having consulted the European Economic and Social Committee ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Whereas:

- (1) Article 2(b) of the Treaty provides for the establishment of uniform safety standards to protect the health of workers and of the general public.
- (2) Article 30 of the Treaty provides for the establishment of basic standards within the Community for the protection of the health of workers and the general public against the dangers arising from ionizing radiations.
- (3) Council Directive 96/29/Euratom of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation ⁽³⁾ establishes the basic safety standards. The provisions of that Directive have been supplemented by more specific legislation.
- (4) As recognised by 'the Court of Justice' of the European Communities (hereinafter referred to as the Court of Justice) in its case-law ⁽⁴⁾, the Community shares competences, together with its Member States, in fields covered by the Convention on Nuclear Safety ⁽⁵⁾.

(5) As recognised by the Court of Justice in its case-law, the provisions of Chapter 3 of the Treaty, related to health and safety, form a coherent whole conferring upon the Commission powers of some considerable scope in order to protect the population and the environment against risks of nuclear contamination.

(6) As recognised by the Court of Justice in its case-law, the tasks imposed on the Community by Article 2(b) of the Treaty to lay down uniform safety standards to protect the health of the population and of workers does not mean that, once such standards have been defined, a Member State may not provide for more stringent measures of protection.

(7) Council Decision 87/600/Euratom of 14 December 1987 on Community arrangements for the early exchange of information in the event of a radiological emergency ⁽⁶⁾ established a framework for notification and provision of information to be used by the Member States in order to protect the general public in case of a radiological emergency. Council Directive 89/618/Euratom of 27 November 1989 on informing the general public about health protection measures to be applied and steps to be taken in the event of a radiological emergency ⁽⁷⁾ imposed obligations on the Member States to inform the general public in the event of a radiological emergency.

(8) National responsibility of Member States for the nuclear safety of nuclear installations is the fundamental principle on which nuclear safety regulation has been developed at the international level, as endorsed by the Convention on Nuclear Safety. That principle of national responsibility, as well as the principle of prime responsibility of the licence holder for the nuclear safety of a nuclear installation under the supervision of its national competent regulatory authority, should be enhanced and the role and independence of the competent regulatory authorities should be reinforced by this Directive.

(9) Each Member State may decide on its energy mix in accordance with relevant national policies.

⁽¹⁾ Opinion of 10 June 2009 (not yet published in the Official Journal).

⁽²⁾ Opinion of the European Parliament of 22 April 2009 (not yet published in the Official Journal).

⁽³⁾ OJ L 159, 29.6.1996, p. 1.

⁽⁴⁾ C-187/87 (1988 ECR p. 5013), C-376/90 (1992 ECR I-6153) and C-29/99 (2002 ECR I-11221).

⁽⁵⁾ OJ L 318, 11.12.1999, p. 21.

⁽⁶⁾ OJ L 371, 30.12.1987, p. 76.

⁽⁷⁾ OJ L 357, 7.12.1989, p. 31.

- (10) When developing the appropriate national framework under this Directive, national circumstances will be taken into account.
- (11) The Member States have already implemented measures enabling them to achieve a high level of nuclear safety within the Community.
- (12) While this Directive concerns principally the nuclear safety of nuclear installations, it is also important to ensure the safe management of spent fuel and radioactive waste, including at storage and disposal facilities.
- (13) Member States should assess, where appropriate, the relevant fundamental safety principles set by the International Atomic Energy Agency⁽¹⁾ which should constitute a framework of practices that Member States should have regard to when implementing this Directive.
- (14) It is useful to build on the process where the national safety authorities of the Member States having nuclear power plants on their territory have been working together in the context of Western European Nuclear Regulators' Association (WENRA) and have defined many safety reference levels for power reactors.
- (15) Following the Council's invitation to set up a High Level Group at EU level, as recorded in its Conclusions of 8 May 2007 on nuclear safety and safe management of spent nuclear fuel and radioactive waste, the European Nuclear Safety Regulators Group (ENSREG) was established by Commission Decision 2007/530/Euratom of 17 July 2007 on establishing the European High Level Group on Nuclear Safety and Waste Management⁽²⁾ to contribute to the achievement of the Community objectives in the field of nuclear safety.
- (16) It is useful to establish a unified structure for reports of Member States to the Commission on the implementation of this Directive. Given its members' wide experience ENSREG could make a valuable contribution in this respect, thereby facilitating consultation and cooperation of national regulatory authorities.
- (17) On 15 October 2008 at its fifth meeting ENSREG adopted 10 principles to be used when drafting a nuclear safety Directive, as noted in its minutes dated 20 November 2008.
- (18) Advances in nuclear technology, lessons learnt from operating experience and safety research and improvements in regulatory frameworks could have the potential to further improve safety. In keeping with the commitment to maintain and improve safety, Member States should take those factors into account when extending their nuclear power programme or deciding to use nuclear power for the first time.
- (19) The establishment of a strong safety culture within a nuclear installation is one of the fundamental safety management principles necessary for achieving its safe operation.
- (20) Maintenance and further development of expertise and skills in nuclear safety should be based, inter alia, on a process of learning from past operating experience and employing developments in methodology and science, as appropriate.
- (21) In the past, self-assessments have been carried out in Member States in close connection with international peer reviews under the auspices of the IAEA as International Regulatory Review Team or Integrated Regulatory Review Service missions. These self-assessments were carried out and these missions were invited by Member States on a voluntary basis in the spirit of openness and transparency. Self-assessments and accompanying peer reviews of the legislative, regulatory and organisational infrastructure should be aimed at strengthening and enhancing the national framework of Member States, whilst recognising their competencies in ensuring nuclear safety of nuclear installations on their territory. The self-assessments followed by international peer reviews are neither an inspection nor an audit, but a mutual learning mechanism that accepts different approaches to the organisation and practices of a competent regulatory authority, while considering regulatory, technical and policy issues of a Member State that contribute to ensuring a strong nuclear safety regime. The international peer reviews should be regarded as an opportunity to exchange professional experience and to share lessons learned and good practices in an open and cooperative spirit through advice by peers rather than control or judgement. Recognising a need for flexibility and appropriateness in regard to different existing systems in Member States, a Member State should be free to determine the segments of its system being subject to the specific peer review invited, with the aim of continuously improving nuclear safety.
- (22) In accordance with point 34 of the Interinstitutional Agreement on better law-making⁽³⁾, Member States are encouraged to draw up, for themselves and in the interests of the Community, their own tables illustrating, as far as possible, the correlation between this Directive and the transposition measures and to make them public,

⁽¹⁾ IAEA Safety Fundamentals: Fundamental safety principles, IAEA Safety Standard Series No SF-1 (2006).

⁽²⁾ OJ L 195, 27.7.2007, p. 44.

⁽³⁾ OJ C 321, 31.12.2003, p. 1.

HAS ADOPTED THIS DIRECTIVE:

CHAPTER 1

OBJECTIVES, DEFINITIONS AND SCOPE OF APPLICATION

Article 1

Objectives

The objectives of this Directive are:

- (a) to establish a Community framework in order to maintain and promote the continuous improvement of nuclear safety and its regulation;
- (b) to ensure that Member States shall provide for appropriate national arrangements for a high level of nuclear safety to protect workers and the general public against the dangers arising from ionizing radiations from nuclear installations.

Article 2

Scope

1. This Directive shall apply to any civilian nuclear installation operating under a licence as defined in Article 3(4) at all stages covered by this licence.
2. This Directive does not prevent Member States from taking more stringent safety measures in the subject-matter covered by this Directive, in compliance with Community law.
3. This Directive supplements the basic standards referred to in Article 30 of the Treaty as regards the nuclear safety of nuclear installations and is without prejudice to Directive 96/29/Euratom.

Article 3

Definitions

For the purposes of this Directive the following definitions shall apply:

1. 'nuclear installation' means:
 - (a) an enrichment plant, nuclear fuel fabrication plant, nuclear power plant, reprocessing plant, research reactor facility, spent fuel storage facility; and
 - (b) storage facilities for radioactive waste that are on the same site and are directly related to nuclear installations listed under point (a);
2. 'nuclear safety' means the achievement of proper operating conditions, prevention of accidents and mitigation of accident consequences, resulting in protection of workers and the general public from dangers arising from ionizing radiations from nuclear installations;
3. 'competent regulatory authority' means an authority or a system of authorities designated in a Member State in the

field of regulation of nuclear safety of nuclear installations as referred to in Article 5;

4. 'licence' means any legal document granted under the jurisdiction of a Member State to confer responsibility for the siting, design, construction, commissioning and operation or decommissioning of a nuclear installation;
5. 'licence holder' means a legal or natural person having overall responsibility for a nuclear installation as specified in a licence.

CHAPTER 2

OBLIGATIONS

Article 4

Legislative, regulatory and organisational framework

1. Member States shall establish and maintain a national legislative, regulatory and organisational framework (hereinafter referred to as the 'national framework') for nuclear safety of nuclear installations that allocates responsibilities and provides for coordination between relevant state bodies. The national framework shall establish responsibilities for:

- (a) the adoption of national nuclear safety requirements. The determination on how they are adopted and through which instrument they are applied rests with the competence of the Member States;
- (b) the provision of a system of licensing and prohibition of operation of nuclear installations without a licence;
- (c) the provision of a system of nuclear safety supervision;
- (d) enforcement actions, including suspension of operation and modification or revocation of a licence.

2. Member States shall ensure that the national framework is maintained and improved when appropriate, taking into account operating experience, insights gained from safety analyses for operating nuclear installations, development of technology and results of safety research, when available and relevant.

Article 5

Competent regulatory authority

1. Member States shall establish and maintain a competent regulatory authority in the field of nuclear safety of nuclear installations.
2. Member States shall ensure that the competent regulatory authority is functionally separate from any other body or organisation concerned with the promotion, or utilisation of nuclear energy, including electricity production, in order to ensure effective independence from undue influence in its regulatory decision making.

3. Member States shall ensure that the competent regulatory authority is given the legal powers and human and financial resources necessary to fulfil its obligations in connection with the national framework described in Article 4(1) with due priority to safety. This includes the powers and resources to:

- (a) require the licence holder to comply with national nuclear safety requirements and the terms of the relevant licence;
- (b) require demonstration of this compliance, including the requirements under paragraphs 2 to 5 of Article 6;
- (c) verify this compliance through regulatory assessments and inspections; and
- (d) carry out regulatory enforcement actions, including suspending the operation of nuclear installation in accordance with conditions defined by the national framework referred to in Article 4(1).

Article 6

Licence holders

1. Member States shall ensure that the prime responsibility for nuclear safety of a nuclear installation rests with the licence holder. This responsibility cannot be delegated.

2. Member States shall ensure that the national framework in place requires licence holders, under the supervision of the competent regulatory authority, to regularly assess and verify, and continuously improve, as far as reasonably achievable, the nuclear safety of their nuclear installations in a systematic and verifiable manner.

3. The assessments referred to in paragraph 2 shall include verification that measures are in place for prevention of accidents and mitigation of consequences of accidents, including verification of the physical barriers and licence holder's administrative procedures of protection that would have to fail before workers and the general public would be significantly affected by ionizing radiations.

4. Member States shall ensure that the national framework in place requires licence holders to establish and implement management systems which give due priority to nuclear safety and are regularly verified by the competent regulatory authority.

5. Member States shall ensure that the national framework in place requires licence holders to provide for and maintain adequate financial and human resources to fulfil their obligations with respect to nuclear safety of a nuclear installation, laid down in paragraphs 1 to 4.

Article 7

Expertise and skills in nuclear safety

Member States shall ensure that the national framework in place requires arrangements for education and training to be made by all parties for their staff having responsibilities relating to the nuclear safety of nuclear installations in order to maintain and to further develop expertise and skills in nuclear safety.

Article 8

Information to the public

Member States shall ensure that information in relation to the regulation of nuclear safety is made available to the workers and the general public. This obligation includes ensuring that the competent regulatory authority informs the public in the fields of its competence. Information shall be made available to the public in accordance with national legislation and international obligations, provided that this does not jeopardise other interests such as, inter alia, security, recognised in national legislation or international obligations.

Article 9

Reporting

1. Member States shall submit a report to the Commission on the implementation of this Directive for the first time by 22 July 2014, and every three years thereafter, taking advantage of the review and reporting cycles under the Convention on Nuclear Safety.

2. On the basis of the Member States' reports, the Commission shall submit a report to the Council and the European Parliament on progress made with the implementation of this Directive.

3. Member States shall at least every 10 years arrange for periodic self-assessments of their national framework and competent regulatory authorities and invite an international peer review of relevant segments of their national framework and/or authorities with the aim of continuously improving nuclear safety. Outcomes of any peer review shall be reported to the Member States and the Commission, when available.

CHAPTER 3

FINAL PROVISIONS

Article 10

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 22 July 2011. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive and of any subsequent amendments to those provisions.

Article 11

Entry into force

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

Article 12

Addressees

This Directive is addressed to the Member States.

Done at Luxembourg, 25 June 2009.

For the Council

The President

L. MIKO

COUNCIL DIRECTIVE 2014/87/EURATOM**of 8 July 2014****amending Directive 2009/71/Euratom establishing a Community framework for the nuclear safety of nuclear installations**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Articles 31 and 32 thereof,

Having regard to the proposal from the European Commission, drawn up after having obtained the opinion of a group of persons appointed by the Scientific and Technical Committee from among scientific experts in the Member States,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,

Whereas:

- (1) Council Directive 2013/59/Euratom ⁽³⁾ establishes uniform basic safety standards for the protection of the health of individuals subject to occupational, medical and public exposures against the dangers arising from ionising radiation.
- (2) Council Directive 2009/71/Euratom ⁽⁴⁾ imposes obligations on the Member States to establish and maintain a national framework for nuclear safety. That Directive reflects the provisions of the main international instruments in the field of nuclear safety, namely the Convention on Nuclear Safety ⁽⁵⁾, as well as the Safety Fundamentals ⁽⁶⁾ established by the International Atomic Energy Agency ('IAEA').
- (3) Council Directive 2011/70/Euratom ⁽⁷⁾ imposes obligations on the Member States to establish and maintain a national framework for spent fuel and radioactive waste management.
- (4) Council Conclusions of 8 May 2007 on nuclear safety and safe management of spent nuclear fuel and radioactive waste highlighted that 'nuclear safety is a national responsibility exercised where appropriate in an EU-framework. Decisions concerning safety actions and the supervision of nuclear installations remain solely with the operators and national authorities'.
- (5) The Fukushima nuclear accident in Japan in 2011 renewed attention worldwide on the measures needed to minimise risk and ensure the most robust levels of nuclear safety. Based on the European Council conclusions of 24-25 March 2011, the national competent regulatory authorities, together with the Commission in the framework of the European Nuclear Safety Regulators Group (ENSREG), established by Commission Decision 2007/530/Euratom ⁽⁸⁾, carried out Community-wide comprehensive risk and safety assessments of nuclear power plants ('stress tests'). The results identified a number of improvements which could be implemented in nuclear safety approaches and industry practices in the participating countries.

⁽¹⁾ Opinion of 2 April 2014 (not yet published in the Official Journal).

⁽²⁾ OJ C 341, 21.11.2013, p. 92.

⁽³⁾ Council Directive 2013/59/Euratom of 5 December 2013 laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom (OJ L 13, 17.1.2014, p. 1).

⁽⁴⁾ Council Directive 2009/71/Euratom of 25 June 2009 establishing a Community framework for the nuclear safety of nuclear installations (OJ L 172, 2.7.2009, p. 18).

⁽⁵⁾ Commission Decision 1999/819/Euratom of 16 November 1999 concerning the accession to the 1994 Convention on Nuclear Safety by the European Atomic Energy Community (Euratom) (OJ L 318, 11.12.1999, p. 20).

⁽⁶⁾ IAEA Safety Fundamentals: Fundamental safety principles, IAEA Safety Standard Series No SF-1 (2006).

⁽⁷⁾ Council Directive 2011/70/Euratom of 19 July 2011 establishing a Community framework for the responsible and safe management of spent fuel and radioactive waste (OJ L 199, 2.8.2011, p. 48).

⁽⁸⁾ Commission Decision 2007/530/Euratom of 17 July 2007 on establishing the European High Level Group on Nuclear Safety and Waste Management (OJ L 195, 27.7.2007, p. 44).

Moreover, the European Council also called on the Commission to review, as appropriate, the existing legal and regulatory framework for the safety of nuclear installations and propose any improvements that may be necessary. The European Council also stressed that the highest standards for nuclear safety should be implemented and continuously improved in the Union.

- (6) A strong competent regulatory authority with effective independence in regulatory decision-making is a fundamental requirement of the Community nuclear safety regulatory framework. It is of utmost importance that the competent regulatory authority has the ability to exercise its powers impartially, transparently and free from undue influence in its regulatory decision-making to ensure a high level of nuclear safety. Regulatory decisions and enforcement actions in the field of nuclear safety should be based on objective safety-related technical considerations and should be established without any undue external influence that might compromise safety, such as undue influence associated with changing political, economic or societal conditions.

The provisions of Directive 2009/71/Euratom on functional separation of competent regulatory authorities should be strengthened to ensure the regulatory authorities' effective independence from undue influence in their regulatory decision-making and to guarantee that they are provided with the appropriate means and competencies to properly carry out the responsibilities assigned to them. In particular, the regulatory authority should have sufficient legal powers, sufficient staffing and sufficient financial resources for the proper discharge of its assigned responsibilities.

The strengthened requirements should be however without prejudice to close cooperation, as appropriate, with other relevant national authorities or to general policy guidelines issued by Member States.

- (7) The regulatory decision-making process should take into account competences and expertise, which may be provided by technical support organisations. This expertise should be based on state-of-the-art scientific and technical knowledge, including from operational experience and safety-related research, knowledge management, and adequate technical resources.
- (8) In accordance with Part 1 of the IAEA General Safety Requirements, the role of the Member States in establishing the framework for nuclear safety, and the role of the regulator in implementing that framework, should both be respected.
- (9) Given the specialised nature of the nuclear industry and the limited availability of staff with the required expertise and competence, resulting in the possible rotation of staff with executive responsibility between the nuclear industry and the regulators, special attention should be given to avoiding conflicts of interest. Moreover, arrangements should be made to ensure that there is no conflict of interest for those organisations that provide the competent regulatory authority with advice or services.
- (10) The consequences of a nuclear accident can go beyond national borders, therefore close cooperation, coordination and information exchange between competent regulatory authorities of Member States in the vicinity of a nuclear installation, irrespective of whether those Member States operate nuclear installations or not, should be encouraged. In this respect, Member States should ensure that appropriate arrangements are in place to facilitate such cooperation on nuclear safety matters with cross-border impacts.
- (11) In order to ensure that the proper skills are acquired and that adequate levels of competence are achieved and maintained, all parties should ensure that all staff having responsibilities relating to the nuclear safety of nuclear installations and to on-site emergency preparedness and response arrangements, undergo a continuous learning process. That can be achieved through the establishment of training programmes and training plans, procedures for periodic review and updating of the training programmes as well as appropriate budgetary provisions for training.
- (12) Another key lesson learned from the Fukushima nuclear accident is the importance of enhancing transparency on nuclear safety matters. Transparency is also an important means of promoting independence in regulatory decision-making. Therefore, the current provisions of Directive 2009/71/Euratom on the information to be provided to the general public should be made more specific as to the type of information to be provided. In addition, the general public should be given opportunities to participate in the relevant phases of the decision-making process related to nuclear installations in accordance with the national framework for nuclear safety, taking into account the different national systems. Decisions on licensing remain the responsibility of national competent authorities.

- (13) The requirements of this Directive on transparency are complementary to those of the existing Euratom legislation. Council Decision 87/600/Euratom ⁽¹⁾ imposes obligations on Member States to notify and provide information to the Commission and to other Member States in case of a radiological emergency on their territory, whilst Directive 2013/59/Euratom includes requirements on Member States to inform the general public about health protection measures to be applied and steps to be taken in the event of a radiological emergency, and to provide at regular intervals updated information to the population likely to be affected in the event of such an emergency.
- (14) During their 6th Review Meeting, the Contracting Parties to the Convention on Nuclear Safety reiterated their commitment to the findings of the 2nd Extraordinary Meeting which took place after the Fukushima accident. In particular, they stressed that 'nuclear power plants should be designed, constructed and operated with the objectives of preventing accidents and, should an accident occur, mitigating its effects and avoiding off-site contamination', and that 'regulatory authorities should ensure that these objectives are applied in order to identify and implement appropriate safety improvements at existing plants'.
- (15) In view of the technical progress achieved through the provisions of the IAEA and by the Western European Nuclear Regulators Association ('WENRA') and responding to the lessons learnt from the stress tests and the Fukushima nuclear accident investigations, Directive 2009/71/Euratom should be amended to include a high level Community nuclear safety objective covering all stages of the lifecycle of nuclear installations (siting, design, construction, commissioning, operation, decommissioning). In particular, this objective calls for significant safety enhancements in the design of new reactors for which the state of the art knowledge and technology should be used, taking into account the latest international safety requirements.
- (16) That objective should notably be reached through nuclear safety assessments, which fall under the scope of this Directive. They should be carried out by the licence holders under the control of the national competent regulatory authority and may be used for the assessment of the risk of a major accident, as covered by Directive 2011/92/EU of the European Parliament and of the Council ⁽²⁾, provided that the requirements of this Directive are met.
- (17) The concept of defence-in-depth is fundamental to the safety of nuclear installations and is the basis for implementing high level nuclear safety objectives. Application of the defence-in-depth principles, as recognised in international standards and guidance and by WENRA, ensures that safety activities are subject to, as far as reasonably practicable, independent layers of provisions, so that in the event that a failure were to occur, it would be detected, compensated or corrected by appropriate measures. The effectiveness of each of the different layers is an essential element of defence-in-depth to prevent accidents and mitigate the consequences should they occur. Defence-in-depth is generally structured in five levels. Should one level fail, the subsequent level comes into play. The objective of the first level of protection is the prevention of abnormal operation and system failures. If the first level fails, abnormal operation is controlled or failures are detected by the second level of protection. Should the second level fail, the third level ensures that safety functions are further performed by activating specific safety systems and other safety features. Should the third level fail, the fourth level limits accident progression through accident management, so as to prevent or mitigate severe accident conditions with external releases of radioactive materials. The last objective (the fifth level of protection) is the mitigation of the radiological consequences of significant external releases through the off-site emergency response.
- (18) Together with defence-in-depth, an effective nuclear safety culture is regarded as a fundamental factor in achieving a high level of nuclear safety and its continuous improvement. Indicators for an effective nuclear safety culture include, in particular: the commitment at all levels of staff and management within an organisation to nuclear safety and its continuous improvement; the promotion of the ability of staff at all levels to question the delivery of relevant safety principles and practices to continuously improve nuclear safety; the ability of staff to report safety issues in a timely manner; the identification of the lessons learnt from operational experience; and the systematic reporting of any deviation from normal operating conditions or arrangements relevant to accident management that have the potential to have an impact on nuclear safety. Important elements which help to achieve a strong nuclear safety culture include, in particular, effective management systems, appropriate education and training and arrangements by the licence holder to register, evaluate and document internal and external safety significant operating experience and effective resolution of issues that have been raised.

⁽¹⁾ Council Decision of 14 December 1987 on Community arrangements for the early exchange of information in the event of a radiological emergency (OJ L 371, 30.12.1987, p. 76).

⁽²⁾ Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (OJ L 26, 28.1.2012, p. 1).

- (19) Where 'reasonably practicable' is used in this Directive it should be applied in accordance with established definitions, in particular the WENRA and IAEA definitions.
- (20) Following the nuclear accidents at Three Mile Island and Chernobyl, the Fukushima nuclear accident highlighted once again the critical importance of the containment function, which is the last barrier to protect people and the environment against radioactive releases resulting from an accident. Therefore the applicant for a licence for the construction of a new power or research reactor should demonstrate that the design limits the effects of a reactor core damage to within the containment, i.e. the applicant should prove that a large or unauthorised radioactive release outside the containment is extremely unlikely, and that applicant should be able to demonstrate with a high degree of confidence that such a release will not occur.
- (21) More specific arrangements for accident management and on-site emergency response should be required to address the prevention and mitigation of accidents. Those should be in accordance and without prejudice to the relevant provisions of the Directive 2013/59/Euratom. The licence holder should provide for procedures, guidelines and arrangements that address accidents including severe accidents, that could occur in all operational modes, including full power, shutdown and transitional states, ensuring consistency and continuity between all such procedures and arrangements, and ensuring that they are exercised, reviewed and updated. Those arrangements should also provide for sufficient staff, equipment and other necessary resources. An organisational structure with clear allocation of responsibilities, and coordination amongst response bodies should be provided.
- (22) The stress tests demonstrated the key role of enhanced cooperation and coordination mechanisms between all parties that have responsibilities for nuclear safety. The peer-reviews have proved to be a good means of building confidence, with the aim of developing and exchanging experience and ensuring the common application of high nuclear safety standards.
- (23) Cooperation on nuclear safety between Member States is well established and can give added value in terms of nuclear safety, transparency and openness towards stakeholders at the European and international level.

Member States, through their competent regulatory authorities making relevant use of ENSREG, and building on the expertise of the WENRA, should every six years define a methodology, Terms of Reference and a time frame for Peer Reviews on a common specific technical topic related to the nuclear safety of their nuclear installations. The common specific technical topic to be considered should be identified among the WENRA safety reference levels or on the basis of operating experience feed-back, incidents and accidents and technological and scientific developments. Member States should perform a national self-assessment and make arrangements for common peer reviews by other Member States' competent regulatory authorities of their national self-assessment.

Reports on the findings of those peer reviews should be produced. Member States should establish national action plans for addressing any relevant findings and their own national assessment, taking into account the results of those peer review reports. The peer review reports should also form the basis of any summary report of the outcome of the Union-wide topical peer review exercise prepared collectively by the competent regulatory authorities of the Member States. The summary report should not aim to rank the safety of nuclear installations but rather focus on the process and technical findings of the topical peer review so that the knowledge gained from the exercise can be shared.

Reciprocal trust should prevail in peer reviews, and it would therefore be appropriate for the Commission, whenever practicable, to inform Member States when it intends to use the results of peer review reports in its policy documents.

- (24) The obligations of the Member States to report on the implementation of this Directive and the obligation of the Commission to draw up a report on the basis of the national reports should provide an opportunity to take stock of, and evaluate, the various aspects of the implementation of this Directive as well as its effectiveness. A number of relevant reporting obligations, such as the Convention on Nuclear Safety reports, exist at international level, the results of which might be used for the evaluation of the implementation of this Directive. Moreover, additional reporting requirements should be established under this Directive in relation to the findings of the topical peer reviews of nuclear installations. Consequently, with a view to simplifying the legislation and reducing the administrative burden, the reporting obligation for the Member States should be made less onerous both as regards the frequency of reporting and the content of the reports.
- (25) In line with a graded approach, the implementation of the provisions of this Directive depends on the types of nuclear installations on the territory of a Member State. Therefore, when implementing these provisions in national law, Member States should take into account the potential magnitude and nature of risks posed by the nuclear installations that they plan or operate. In particular, the graded approach should concern those Member

States that keep only a small inventory of nuclear and radioactive materials, e.g. those linked to the operation of smaller research reactor facilities, which in case of a severe accident would not engender consequences comparable to those generated by nuclear power plants.

- (26) The provisions of this Directive which are intrinsically linked to the existence of nuclear installations, namely those concerning the licence holder's obligations, the new specific requirements for nuclear installations and the provisions concerning on-site emergency preparedness and response should not be applicable to Member States without nuclear installations. The provisions of this Directive should be transposed and implemented in a proportionate manner in accordance with national circumstances and taking into account the fact that those Member States do not have nuclear installations, whilst ensuring that nuclear safety receives appropriate attention by the government or by the competent authorities.
- (27) According to Directive 2009/71/Euratom, the Member States have to establish and maintain a national legislative, regulatory and organisational framework for the nuclear safety of nuclear installations. The decision as to how the provisions of the national framework are adopted and through which instrument they are applied rests with the competence of the Member States.
- (28) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the provisions of a directive and the corresponding parts of national transposition instruments. With regard to this Directive the legislator considers the transmission of such documents to be justified.
- (29) Directive 2009/71/Euratom should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 2009/71/Euratom is amended as follows:

- (1) the heading of Chapter 1 is replaced by the following:

'OBJECTIVES, SCOPE AND DEFINITIONS'.

- (2) Article 2 is amended as follows:

- (a) paragraph 1 is replaced by the following:

'1. This Directive shall apply to any civilian nuclear installation subject to a licence.'

- (b) paragraph 3 is replaced by the following:

'3. This Directive supplements the basic standards referred to in Article 30 of the Treaty as regards the nuclear safety of nuclear installations and is without prejudice to the existing Community legislation for the protection of the health of the workers and the general public against the dangers arising from ionising radiation, and in particular Council Directive 2013/59/Euratom (*).

(*) Council Directive 2013/59/Euratom of 5 December 2013 laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom (OJ L 13, 17.1.2014, p. 1).'

- (3) Article 3 is amended as follows:

- (a) paragraph 1(a) is replaced by the following:

'(a) a nuclear power plant, enrichment plant, nuclear fuel fabrication plant, reprocessing plant, research reactor facility, spent fuel storage facility; and'

- (b) the following paragraphs are added:

'6. "accident" means any unintended event, the consequences or potential consequences of which are significant from the point of view of radiation protection or nuclear safety;

7. "incident" means any unintended event, the consequences or potential consequences of which are not negligible from the point of view of radiation protection or nuclear safety;

8. “abnormal operations” means an operational process deviating from normal operation which is expected to occur at least once during the operating lifetime of a facility but which, in view of appropriate design provisions, does not cause any significant damage to items important to safety or lead to accident conditions;
9. “design basis” means the range of conditions and events taken explicitly into account in the design, including upgrades, of a nuclear installation, according to established criteria, so that the installation can withstand them without exceeding authorised limits by the planned operation of safety systems;
10. “design basis accident” means accident conditions against which a nuclear installation is designed according to established design criteria, and for which the damage to the fuel, where applicable, and the release of radioactive material are kept within authorised limits;
11. “severe conditions” means conditions that are more severe than conditions related to design basis accidents; such conditions may be caused by multiple failures, such as the complete loss of all trains of a safety system, or by an extremely unlikely event.’

(4) In Chapter 2, the following title is inserted after the heading ‘OBLIGATIONS’:

‘SECTION 1

General obligations’.

(5) Article 4(1) is replaced by the following:

‘1. Member States shall establish and maintain a national legislative, regulatory and organisational framework (“national framework”) for the nuclear safety of nuclear installations. The national framework shall provide in particular for:

- (a) the allocation of responsibilities and coordination between relevant state bodies;
- (b) national nuclear safety requirements, covering all stages of the lifecycle of nuclear installations;
- (c) a system of licensing and prohibition of operation of nuclear installations without a licence;
- (d) a system of regulatory control of nuclear safety performed by the competent regulatory authority;
- (e) effective and proportionate enforcement actions, including, where appropriate, corrective action or suspension of operation and modification or revocation of a licence.

The determination on how national nuclear safety requirements referred to in point (b) are adopted and through which instrument they are applied remains within the competences of the Member States.’

(6) In Article 5, paragraphs 2 and 3 are replaced by the following:

‘2. Member States shall ensure the effective independence from undue influence of the competent regulatory authority in its regulatory decision-making. For this purpose, Member States shall ensure that the national framework requires that the competent regulatory authority:

- (a) is functionally separate from any other body or organisation concerned with the promotion or utilisation of nuclear energy, and does not seek or take instructions from any such body or organisation when carrying out its regulatory tasks;
- (b) takes regulatory decisions founded on robust and transparent nuclear safety-related requirements;
- (c) is given dedicated and appropriate budget allocations to allow for the delivery of its regulatory tasks as defined in the national framework and is responsible for the implementation of the allocated budget;
- (d) employs an appropriate number of staff with qualifications, experience and expertise necessary to fulfil its obligations. It may use external scientific and technical resources and expertise in support of its regulatory functions;

- (e) establishes procedures for the prevention and resolution of any conflicts of interest;
- (f) provides nuclear safety-related information without clearance from any other body or organisation, provided that this does not jeopardise other overriding interests, such as security, recognised in relevant legislation or international instruments.

3. Member States shall ensure that the competent regulatory authority is given the legal powers necessary to fulfil its obligations in connection with the national framework described in Article 4(1). For this purpose, Member States shall ensure that the national framework entrusts the competent regulatory authorities with the following main regulatory tasks, to:

- (a) propose, define or participate in the definition of national nuclear safety requirements;
 - (b) require that the licence holder complies and demonstrates compliance with national nuclear safety requirements and the terms of the relevant licence;
 - (c) verify such compliance through regulatory assessments and inspections;
 - (d) propose or carry out effective and proportionate enforcement actions.
- (7) Articles 6, 7 and 8 are replaced by the following:

Article 6

Licence holders

Member States shall ensure that the national framework requires that:

- (a) the prime responsibility for the nuclear safety of a nuclear installation rests with the licence holder. That responsibility cannot be delegated and includes responsibility for the activities of contractors and sub-contractors whose activities might affect the nuclear safety of a nuclear installation;
- (b) when applying for a licence, the applicant is required to submit a demonstration of nuclear safety. Its scope and level of detail shall be commensurate with the potential magnitude and nature of the hazard relevant for the nuclear installation and its site;
- (c) licence holders are to regularly assess, verify, and continuously improve, as far as reasonably practicable, the nuclear safety of their nuclear installations in a systematic and verifiable manner. That shall include verification that measures are in place for the prevention of accidents and mitigation of the consequences of accidents, including the verification of the application of defence-in-depth provisions;
- (d) licence holders establish and implement management systems which give due priority to nuclear safety;
- (e) licence holders provide for appropriate on-site emergency procedures and arrangements, including severe accident management guidelines or equivalent arrangements, for responding effectively to accidents in order to prevent or mitigate their consequences. Those shall in particular:
 - (i) be consistent with other operational procedures and periodically exercised to verify their practicability;
 - (ii) address accidents and severe accidents that could occur in all operational modes and those that simultaneously involve or affect several units;
 - (iii) provide arrangements to receive external assistance;
 - (iv) be periodically reviewed and regularly updated, taking account of experience from exercises and lessons learned from accidents;
- (f) licence holders provide for and maintain financial and human resources with appropriate qualifications and competences, necessary to fulfil their obligations with respect to the nuclear safety of a nuclear installation. Licence holders shall also ensure that contractors and subcontractors under their responsibility and whose activities might affect the nuclear safety of a nuclear installation have the necessary human resources with appropriate qualifications and competences to fulfil their obligations.

*Article 7***Expertise and skills in nuclear safety**

Member States shall ensure that the national framework requires all parties to make arrangements for the education and training for their staff having responsibilities related to the nuclear safety of nuclear installations so as to obtain, maintain and to further develop expertise and skills in nuclear safety and on-site emergency preparedness.

*Article 8***Transparency**

1. Member States shall ensure that necessary information in relation to the nuclear safety of nuclear installations and its regulation is made available to workers and the general public, with specific consideration to local authorities, population and stakeholders in the vicinity of a nuclear installation. That obligation includes ensuring that the competent regulatory authority and the licence holders, within their fields of responsibility, provide in the framework of their communication policy:

- (a) information on normal operating conditions of nuclear installations to workers and the general public; and
- (b) prompt information in case of incidents and accidents to workers and the general public and to the competent regulatory authorities of other Member States in the vicinity of a nuclear installation.

2. Information shall be made available to the public in accordance with relevant legislation and international instruments, provided that this does not jeopardise other overriding interests, such as security, which are recognised in relevant legislation or international instruments.

3. Member States shall, without prejudice to Article 5(2), ensure that the competent regulatory authority engages, as appropriate, in cooperation activities on the nuclear safety of nuclear installations with competent regulatory authorities of other Member States in the vicinity of a nuclear installation, inter alia, via the exchange and/or sharing of information.

4. Member States shall ensure that the general public is given the appropriate opportunities to participate effectively in the decision-making process relating to the licensing of nuclear installations, in accordance with relevant legislation and international instruments.

(8) The following Section is inserted after Article 8:

*SECTION 2****Specific obligations****Article 8a***Nuclear safety objective for nuclear installations**

1. Member States shall ensure that the national nuclear safety framework requires that nuclear installations are designed, sited, constructed, commissioned, operated and decommissioned with the objective of preventing accidents and, should an accident occur, mitigating its consequences and avoiding:

- (a) early radioactive releases that would require off-site emergency measures but with insufficient time to implement them;
- (b) large radioactive releases that would require protective measures that could not be limited in area or time.

2. Member States shall ensure that the national framework requires that the objective set out in paragraph 1:

- (a) applies to nuclear installations for which a construction licence is granted for the first time after 14 August 2014;
- (b) is used as a reference for the timely implementation of reasonably practicable safety improvements to existing nuclear installations, including in the framework of the periodic safety reviews as defined in Article 8c(b).

*Article 8b***Implementation of the nuclear safety objective for nuclear installations**

1. In order to achieve the nuclear safety objective set out in Article 8a, Member States shall ensure that the national framework requires that where defence-in-depth applies, it shall be applied to ensure that:

- (a) the impact of extreme external natural and unintended man-made hazards is minimised;
- (b) abnormal operation and failures are prevented;
- (c) abnormal operation is controlled and failures are detected;
- (d) accidents within the design basis are controlled;
- (e) severe conditions are controlled, including prevention of accidents progression and mitigation of the consequences of severe accidents;
- (f) organisational structures according to Article 8d(1) are in place.

2. In order to achieve the nuclear safety objective set out in Article 8a, Member States shall ensure that the national framework requires that the competent regulatory authority and the licence holder take measures to promote and enhance an effective nuclear safety culture. Those measures include in particular:

- (a) management systems which give due priority to nuclear safety and promote, at all levels of staff and management, the ability to question the effective delivery of relevant safety principles and practices, and to report in a timely manner on safety issues, in accordance with Article 6(d);
- (b) arrangements by the licence holder to register, evaluate and document internal and external safety significant operating experience;
- (c) the obligation of the licence holder to report events with a potential impact on nuclear safety to the competent regulatory authority; and,
- (d) arrangements for education and training, in accordance with Article 7.

*Article 8c***Initial assessment and periodic safety reviews**

Member States shall ensure that the national framework requires that:

- (a) any grant of a licence to construct a nuclear installation or operate a nuclear installation, is based upon an appropriate site and installation-specific assessment, comprising a nuclear safety demonstration with respect to the national nuclear safety requirements based on the objective set in Article 8a;
- (b) the licence holder under the regulatory control of the competent regulatory authority, re-assesses systematically and regularly, at least every 10 years, the safety of the nuclear installation as laid down in Article 6(c). That safety reassessment aims at ensuring compliance with the current design basis and identifies further safety improvements by taking into account ageing issues, operational experience, most recent research results and developments in international standards, using as a reference the objective set in Article 8a.

*Article 8d***On-site emergency preparedness and response**

1. Without prejudice to the provisions of the Directive 2013/59/Euratom, Member States shall ensure that the national framework requires that an organisational structure for on-site emergency preparedness and response is established with a clear allocation of responsibilities and coordination between the licence holder, and competent authorities and organisations, taking into account all phases of an emergency.

2. Member States shall ensure that there is consistency and continuity between the on-site emergency preparedness and response arrangements required by the national framework and other emergency preparedness and response arrangements required under Directive 2013/59/Euratom.

(9) The following Chapter is inserted after Article 8d:

‘CHAPTER 2a

PEER REVIEWS AND REPORTING

Article 8e

Peer reviews

1. Member States shall, at least once every 10 years, arrange for periodic self-assessments of their national framework and competent regulatory authorities and invite an international peer review of relevant segments of their national framework and competent regulatory authorities with the aim of continuously improving nuclear safety. Outcomes of such peer reviews shall be reported to the Member States and the Commission, when available.

2. Member States shall ensure that, on a coordinated basis:

- (a) a national assessment is performed, based on a specific topic related to nuclear safety of the relevant nuclear installations on their territory;
- (b) all other Member States, and the Commission as observer, are invited to peer review the national assessment referred to in point (a);
- (c) appropriate follow-up measures are taken of relevant findings resulting from the peer review process;
- (d) relevant reports are published on the above mentioned process and its main outcome when results are available.

3. Member States shall ensure that arrangements are in place to allow for the first topical peer review to start in 2017, and for subsequent topical peer reviews to take place at least every six years thereafter.

4. In case of an accident leading to situations that would require off-site emergency measures or protective measures for the general public, the Member State concerned shall ensure that an international peer review is invited without undue delay.’

(10) Article 9 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. Member States shall submit a report to the Commission on the implementation of this Directive for the first time by 22 July 2014, and then by 22 July 2020.’;

(b) paragraph 3 is deleted.

(11) In Article 10, the following paragraph is inserted after paragraph 1:

‘1a. The obligations of transposition and implementation of Articles 6, 8a, 8b, 8c and 8d shall not apply to Member States without nuclear installations, unless they decide to develop any activity related to nuclear installations subject to a licence under their jurisdiction.’

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 15 August 2017. They shall immediately inform the Commission thereof.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive and of any subsequent amendments to those provisions.

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 8 July 2014.

For the Council
The President
P. C. PADOAN

COUNCIL DIRECTIVE 2006/117/EURATOM

of 20 November 2006

on the supervision and control of shipments of radioactive waste and spent fuel

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Articles 31(2) and 32 thereof,

Having regard to the proposal from the Commission drawn up after obtaining the opinion of a group of persons appointed by the Scientific and Technical Committee from among scientific experts in the Member States, in accordance with Article 31 of the Treaty, and after having consulted the European Economic and Social Committee ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Whereas:

- (1) Operations involved in shipments of radioactive waste or spent fuel are subject to a number of requirements under Community and international legal instruments regarding in particular the safe transport of radioactive material and the conditions under which radioactive waste or spent fuel is disposed of or stored in the country of destination.
- (2) Further to these requirements, the health protection of workers and the general public requires that shipments of radioactive waste or spent fuel between Member States and into and out of the Community be subject to a compulsory and common system of prior authorisation.
- (3) As stated in Council Resolution of 22 May 2002 on the establishment of national systems for surveillance and control of the presence of radioactive materials in the recycling of metallic materials in the Member States ⁽³⁾, it is important to minimise the radiological risk deriving from the presence of radioactive materials among metallic materials destined for recycling.

- (4) Council Directive 92/3/Euratom of 3 February 1992 on the supervision and control of shipments of radioactive waste between Member States and into and out of the Community ⁽⁴⁾ established a Community system of strict control and prior authorisation for shipments of radioactive waste that has proved satisfactory. It needs, nevertheless, to be amended in the light of experience in order to clarify and add concepts and definitions, to address situations that had been omitted in the past, to simplify the existing procedure for the shipment of radioactive waste between Member States and to guarantee consistency with other Community and international provisions, and in particular with the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management (hereinafter referred to as Joint Convention), to which the Community acceded on 2 January 2006.

- (5) In the framework of the Fifth Phase of the SLIM (Simpler Legislation for the Internal Market) initiative, a working group of representatives of Member States and of users was set up in order to address a number of concerns expressed by users of Directive 92/3/Euratom, while bringing it into line with current international rules and instruments.

- (6) The procedure laid down in Directive 92/3/Euratom has been applied in practice only to shipments of spent fuel for which no further use is intended, considered thus as 'radioactive waste' for the purposes of that Directive. From a radiological point of view, excluding the application of such supervision and control procedure to spent fuel where it is intended for reprocessing is not justified. It is therefore appropriate that this Directive cover all shipments of spent fuel, whether it is intended for disposal or for reprocessing.
- (7) Each Member State should remain fully responsible for the choice of its own policy on the management of the nuclear waste and spent fuel within its jurisdiction, some choosing reprocessing of spent fuel, others aiming at final disposal of spent fuel with no other use foreseen. This Directive should therefore be without prejudice to the right of Member States to export their spent fuel for reprocessing and nothing in this Directive should imply that a Member State of destination has to accept shipments of radioactive waste and spent fuel for final treatment or disposal except in the case of reshipment. Any refusal of such shipments should be justified on the basis of the criteria set out in this Directive.

⁽¹⁾ OJ C 286, 17.11.2005, p. 34.

⁽²⁾ Opinion delivered on 5 July 2006 (not yet published in the Official Journal).

⁽³⁾ OJ C 119, 22.5.2002, p. 7.

⁽⁴⁾ OJ L 35, 12.2.1992, p. 24.

- (8) Simplification of the existing procedure should not hamper the existing rights of the Member States to object to, or impose conditions in relation to, a shipment of radioactive waste which require their consent. Objections should not be arbitrary and should be founded on relevant national, Community or international law. This Directive should be without prejudice to rights and obligations under international law, and in particular to the exercise, by ships and aircraft, of maritime, river and air navigation rights and freedoms, as provided for under international law.
- (9) The possibility for a Member State of destination or of transit to refuse the automatic procedure for granting consent to shipments imposes an unjustified administrative burden and generates uncertainty. The mandatory acknowledgement of receipt of the application by the authorities of the countries of destination and transit, together with the extension of the period for granting consent, should allow tacit approval to be assumed with a high degree of certainty.
- (10) The 'authorisations' for shipments in the sense of this Directive should not replace any specific national requirements for the shipments such as transport licences.
- (11) To protect human health and the environment against the dangers arising from radioactive waste, account should be taken of risks occurring outside the Community. In the case of radioactive waste and spent fuel leaving the Community, the third country of destination should not only be informed of the shipment, but should also give its consent to it.
- (12) The competent authorities of the Member State of destination should cooperate and liaise with the other competent authorities involved in order to avoid undue delays and to ensure a smooth operation of the consent procedure laid down by this Directive.
- (13) The requirement that the person responsible for the shipment take corrective safety measures where necessary in case of shipment failure should not prevent the application of mechanisms established by the Member States at national level.
- (14) The requirement that the holder be liable for costs arising in case of shipment failure should not prevent that mechanisms established by the Member States at national level or any contractual arrangement between the holder and any other person involved in the shipment, apply.
- (15) While radioactive waste should, as far as is compatible with the safe management of such material, be disposed of in the State in which it was generated it is recognized that Member States should promote agreements between themselves in order to facilitate the safe and efficient management of radioactive waste or spent fuel from Member States that produced it in small quantities and where the establishment of appropriate facilities would not be justified from a radiological point of view.
- (16) When an arrangement between a consignee in a third country and a holder in a third country has been concluded pursuant to Article 27 of the Joint Convention, the same arrangement could be used for the purpose of this Directive.
- (17) For the purposes of this Directive and in the light of past experience it is appropriate to adapt the existing standard document. For the sake of clarity the obligation to establish the new standard document by the date of transposition of this Directive should be laid down. However, should this deadline not be met, transitional provisions should provide for the use of the existing standard document. Moreover, clear rules on the use of languages should allow for legal certainty and prevent unjustified delays.
- (18) Periodical reporting from Member States to the Commission and from the Commission to the European Parliament, to the Council and to the European Economic and Social Committee should provide a useful overview of authorisations given Community-wide and should identify possible difficulties encountered in practice by the Member States and solutions applied.
- (19) Council Directive 96/29/Euratom of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation⁽¹⁾, applies, *inter alia*, to the transport, import to and export from the Community of radioactive substances and provides for a reporting and authorisation system of practices involving ionising radiation. Those provisions are therefore relevant to the field covered by this Directive.
- (20) In the light of the foregoing, it is necessary, for reasons of clarity, to repeal and replace Directive 92/3/Euratom. This Directive should not prejudice the obligations of the Member States concerning the deadlines for transposition into national law and application of the repealed Directive.

⁽¹⁾ OJ L 159, 29.6.1996, p. 1.

(21) In accordance with paragraph 34 of the interinstitutional agreement on better law making ⁽¹⁾ Member States are encouraged to draw up, for themselves and in the interest of the Community, their own tables which will, as far as possible, illustrate the correlation between this Directive and the transposition measures and to make them public,

HAS ADOPTED THIS DIRECTIVE:

CHAPTER 1

PRELIMINARY PROVISIONS

Article 1

Subject matter and scope

1. This Directive lays down a Community system of supervision and control of transboundary shipments of radioactive waste and spent fuel, so as to guarantee an adequate protection of the population.

2. This Directive shall apply to transboundary shipments of radioactive waste or spent fuel whenever:

(a) the country of origin or the country of destination or any country of transit is a Member State of the Community; and

(b) the quantities and concentration of the consignment exceed the levels laid down in Article 3(2) points (a) and (b) of Directive 96/29/Euratom.

3. This Directive shall not apply to shipments of disused sources to a supplier or manufacturer of radioactive sources or to a recognised installation.

4. This Directive shall not apply to shipments of radioactive materials recovered, through reprocessing, for further use.

5. This Directive shall not apply to transboundary shipments of waste that contains only naturally occurring radioactive material which does not arise from practices.

6. This Directive is without prejudice to rights and obligations under international law.

Article 2

Reshipments related to processing and reprocessing operations

This Directive shall not affect the right of a Member State or an undertaking in the Member State to which:

(a) radioactive waste is to be shipped for processing; or

(b) other material is to be shipped with the purpose to recover the radioactive waste,

to return the radioactive waste after treatment to its country of origin. Nor shall it affect the right of a Member State or an undertaking in that Member State to which spent fuel is to be shipped for reprocessing to return to its country of origin radioactive waste recovered from the reprocessing operation.

Article 3

Transboundary shipments of spent fuel for reprocessing

Without prejudice to the competence of each Member State to define its own spent fuel cycle policy, this Directive shall not affect the right of a Member State to export spent fuel for reprocessing, taking into account the principles of the nuclear common market, in particular the free movement of goods. Those shipments and exports shall be supervised and controlled in accordance with the procedures laid down in this Directive.

Article 4

Reshipment related to non-authorised shipments and undeclared radioactive waste

This Directive shall not affect the right of a Member State to safely return to its country of origin:

(a) shipments of radioactive waste and spent fuel which fall under the scope of this Directive but which were not duly authorised in accordance with this directive; and

(b) radioactively contaminated waste or material containing a radioactive source where this material has not been declared as radioactive waste by the country of origin.

Article 5

Definitions

For the purposes of this Directive the following definitions shall apply:

1. 'radioactive waste' means radioactive material in gaseous, liquid or solid form for which no further use is foreseen by the countries of origin and destination, or by a natural or legal person whose decision is accepted by these countries, and which is controlled as radioactive waste by a regulatory body under the legislative and regulatory framework of the countries of origin and destination;

2. 'spent fuel' means nuclear fuel that has been irradiated in and permanently removed from a reactor core; spent fuel may either be considered as usable resource that can be reprocessed or be destined for final disposal with no further use foreseen and treated as radioactive waste;

⁽¹⁾ OJ C 321, 31.12.2003, p. 1.

3. 'reprocessing' means a process or operation, the purpose of which is to extract radioactive isotopes from spent fuel for further use;
4. 'shipment' means the whole of operations involved in moving radioactive waste or spent fuel from the country or the Member State of origin to the country or the Member State of destination;
5. 'intra-community shipment' means a shipment carried out where the country of origin and the country of destination are Member States;
6. 'extra-community shipment' means a shipment carried out where the country of origin and/or the country of destination are third countries;
7. 'disposal' means the emplacement of radioactive waste or spent fuel in an authorised facility without the intention of retrieval;
8. 'storage' means the holding of radioactive waste or spent fuel in a facility that provides for its containment, with the intention of retrieval;
9. 'holder' means any natural or legal person who, before carrying out a shipment of radioactive waste or spent fuel is responsible under the applicable national law for such materials and plans to carry out a shipment to a consignee;
10. 'consignee' means any natural or legal person to whom radioactive waste or spent fuel is shipped;
11. 'country or Member State of origin' and 'country or Member State of destination' respectively means any country or Member State from which a shipment is planned to be initiated or is initiated, and any country or Member State to which a shipment is planned or takes place;
12. 'country or Member State of transit' means any country or Member State other than the country or the Member State of origin or the country or the Member State of destination, through the territory of which a shipment is planned or takes place;
13. 'competent authorities' means any authority which, under the law or regulations of the countries of origin, transit or destination, are empowered to implement the system of supervision and control of shipments of radioactive waste or spent fuel;
14. 'sealed source' has the meaning given to it by Directive 96/29/Euratom and includes the capsule, where applicable, enclosing the radioactive material as an integral part of the source;
15. 'disused source' means a sealed source which is no longer used or intended to be used for the practice for which authorisation was granted;
16. 'recognised installation' means a facility located in the territory of a country authorised by the competent authorities of that country in accordance with national law for the long-term storage or disposal of sealed sources or an installation duly authorised under national law for the interim storage of sealed sources;
17. 'duly completed application' means the standard document that complies with all the requirements, as established in accordance with Article 17.

CHAPTER 2

INTRA-COMMUNITY SHIPMENTS

Article 6

Application for shipment authorisation

1. A holder who plans to carry out an intra-Community shipment of radioactive waste or spent fuel or to arrange for such a shipment to be carried out shall submit a duly completed application for authorisation to the competent authorities of the Member State of origin.
2. The application may be sent in respect of more than one shipment, provided that:
 - (a) the radioactive waste or the spent fuel to which it relates essentially has the same physical, chemical and radioactive characteristics; and
 - (b) the shipments are to be made from the same holder to the same consignee and involve the same competent authorities, and
 - (c) where shipments involve transit through third countries, such transit is via the same frontier post of entry to and/or exit from the Community and via the same frontier post(s) of the third country or countries concerned, unless otherwise agreed between the competent authorities concerned.

*Article 7***Transmission of the application to the competent authorities**

1. The competent authorities of the Member State of origin shall send the duly completed application referred to in Article 6 for consent to the competent authorities of the Member State of destination and of the Member States of transit, if any.

2. The competent authorities of the Member States involved shall take the necessary measures to ensure that all information regarding shipments covered by this Directive is handled with due care and protected against any misuse.

*Article 8***Acknowledgement of receipt and request for information**

1. Within 20 days following the receipt of the application, the competent authorities of the Member State of destination and transit shall verify that the application is duly completed, within the meaning of Article 5(17).

2. In case the application is duly completed, the competent authorities of the Member State of destination shall send an acknowledgement of receipt to the competent authorities of the Member State of origin and copy it to the other competent authorities concerned, not later than 10 days after expiry of the 20 days period set out in paragraph 1.

3. If any of the competent authorities of the Member States concerned consider that the application is not duly completed, they shall request the missing information from the competent authorities of the Member State of origin and inform the other competent authorities of such request. This request shall be made not later than the expiry of the period set out in paragraph 1.

The competent authorities of the Member State of origin shall transmit the requested information to the competent authorities concerned.

Not later than 10 days after the date of receipt of the missing information and not earlier than after expiry of the 20 days period set out in paragraph 1, the competent authorities of the Member State of destination shall send an acknowledgement of receipt to the competent authorities of the Member State of origin and copy it to the other competent authorities concerned.

4. The time periods set out in paragraphs 1, 2 and 3 for issuing the acknowledgement of receipt may be shortened if the competent authorities of destination and transit are satisfied that the application is duly completed.

*Article 9***Consent and refusal**

1. Not later than two months from the date of acknowledgement of receipt the competent authorities of all Member States concerned shall notify the competent authorities of the Member State of origin of their consent, or of the conditions which they consider necessary for giving their consent, or of their refusal to grant consent.

However, the competent authorities of the Member State of destination or of any Member State of transit may request a further period of not more than one month in addition to the period referred to in the first subparagraph to make their position known.

2. If upon expiry of the periods set out in paragraph 1, no reply has been received from the competent authorities of the Member State of destination and/or the intended Member State of transit, those countries shall be deemed to have given their consent for the shipment requested.

3. Reasons shall be given by Member States for any refusal to grant consent, or for conditions attached to their consent, which shall be based:

- (a) for Member States of transit, on the relevant national, Community or international legislation applicable to the transport of radioactive material;
- (b) for the Member State of destination, on relevant legislation applicable to the management of radioactive waste or spent fuel or on relevant national, Community or international legislation applicable to the transport of radioactive material.

Any conditions imposed by the competent authorities of the Member States, whether they are the country of transit or of destination, may not be more stringent than those laid down for similar shipments within those Member States.

4. The Member State or States which gave consent to transit for a given shipment may not refuse to give consent to reshipment in the following cases:

- (a) when the initial consent concerned material being shipped for treatment or reprocessing purposes, if the reshipment concerns radioactive waste or other products equivalent to the original material after treatment or reprocessing, and all relevant legislation is respected;
- (b) under the circumstances described in Article 12, if the reshipment is undertaken on the same conditions and with the same specifications.

5. Unjustified delays and/or lack of cooperation by the competent authorities of another Member State shall be reported to the Commission.

Article 10

Authorisation of shipments

1. If all the consents necessary for shipment have been given, the competent authorities of the Member State of origin shall be entitled to authorise the holder to carry out the shipment and shall inform the competent authorities of the Member State of destination and of any Member State or third country of transit accordingly.

2. The authorisation referred to in paragraph 1 shall not in any way affect the responsibility of the holder, the transporters, the owner, the consignee or any other natural or legal person involved in the shipment.

3. A single authorisation may cover more than one shipment, where the conditions set out in Article 6(2) are met.

4. Any authorisation shall be valid for a period of not more than three years.

When establishing this period of validity, Member States shall take into account any conditions set out in the consent given by the Member States of destination or of transit.

Article 11

Acknowledgement of receipt of the shipment

1. Within 15 days of receipt, the consignee shall send the competent authorities of the Member State of destination an acknowledgement of receipt of each shipment.

2. The competent authorities of the Member State of destination shall send copies of the acknowledgement of receipt to the Member State of origin and any Member State or third country of transit.

3. The competent authorities of the Member State of origin shall send a copy of the acknowledgement of receipt to the original holder.

Article 12

Shipment failure

1. The Member State of destination, origin or transit may decide that the shipment may not be completed if the conditions for shipment are no longer complied with in accordance with this Directive, or are not in accordance with the authorisations or consents given pursuant to this Directive.

Such Member State shall forthwith inform the competent authorities of the other Member States involved in the shipment of this decision.

2. Where a shipment cannot be completed or if the conditions for shipment are not complied with in accordance with this Directive, the competent authorities of the Member State of origin shall ensure that the radioactive waste or the spent fuel in question is taken back by the holder, unless an alternative safe arrangement can be made. These competent authorities shall ensure that the person responsible for the shipment takes corrective safety measures where necessary.

3. The holder shall be liable for costs arising in cases where the shipment cannot or may not be completed.

CHAPTER 3

EXTRA-COMMUNITY SHIPMENTS

Article 13

Imports into the Community

1. Where radioactive waste or spent fuel falling within the scope of this Directive is to enter the Community from a third country and the country of destination is a Member State, the consignee shall submit an application for authorisation to the competent authorities of that Member State. The application may be sent in respect of more than one shipment, under the conditions set out in Article 6(2).

The application shall include evidence that the consignee has made an arrangement with the holder established in the third country, and which has been accepted by the competent authorities of that third country, obliging that holder to take back the radioactive waste or the spent fuel where a shipment cannot be completed in accordance with this Directive, as provided for in paragraph 5 of this Article.

2. The competent authorities of the Member State of destination shall send the application referred to in paragraph 1 for consent to the competent authorities of the Member States of transit, if any.

Articles 8 and 9 shall apply.

3. If all the consents necessary for the shipment have been granted, the competent authorities of the Member State of destination shall be entitled to authorise the consignee to carry out the shipment and shall inform the competent authorities of any Member State or third country of origin or of transit accordingly.

Article 10(2), (3) and (4) shall apply.

4. Within 15 days of receipt of the shipment, the consignee shall send the competent authorities of the Member State of destination an acknowledgement of receipt of each shipment. The competent authorities of the Member State of destination shall send copies of the acknowledgement to the country of origin and to any Member State or third country of transit.

5. The Member State of destination or any Member State of transit may decide that the shipment may not be completed if the conditions for shipment are no longer complied with in accordance with this Directive, or are not in accordance with the authorisations or consents issued pursuant to this Directive. Such Member State shall forthwith inform the competent authorities of the country of origin of this decision.

6. The consignee shall be liable for costs arising in cases where the shipment cannot or may not be completed.

Article 14

Transit through the Community

1. Where radioactive waste or spent fuel is to enter the Community from a third country and the country of destination is not a Member State, the natural or legal person who has the responsibility for managing the shipment within the Member State through whose customs post radioactive waste or spent fuel is first to enter the Community (first Member State of transit) shall submit an application for authorisation to the competent authorities of that Member State. The application may be sent in respect of more than one shipment, under the conditions set out in Article 6(2).

The application shall include evidence that the consignee established in the third country has made an arrangement with the holder established in the third country, and accepted by the competent authorities of that third country, obliging that holder to take back radioactive waste or the spent fuel where a shipment cannot be completed in accordance with this Directive, as provided for in paragraph 5 of this Article.

2. The competent authorities of the first Member State of transit shall send the application referred to in paragraph 1 for consent to the competent authorities of other Member States of transit, if any.

Articles 8 and 9 shall apply.

3. If all the consents necessary for shipment have been granted, the competent authorities of the first Member State of transit shall be entitled to authorise the person responsible

referred to in paragraph 1 to carry out the shipment and shall inform the competent authorities of any other Member State or third country of transit or of origin accordingly.

Article 10(2), (3) and (4) shall apply.

4. The person responsible referred to in paragraph 1 shall notify the competent authorities of the first Member State of transit that the radioactive waste or spent fuel has reached its destination in the third country within 15 days of the date of arrival and shall indicate the last customs post in the Community through which the shipment passed.

The notification shall be substantiated by a declaration or certification by the consignee stating that the radioactive waste or spent fuel has reached its proper destination and indicating the customs post of entry in the third country.

5. A Member State of transit may decide that the shipment may not be completed if the conditions for shipment are no longer complied with in accordance with this Directive, or are not in accordance with the authorisations or consents issued pursuant to this Directive. Such Member State shall forthwith inform the competent authorities of the country of origin of this decision. The person responsible referred to in paragraph 1 shall be liable for costs arising in cases where the shipment cannot or may not be completed.

Article 15

Exports out of the Community

1. Where radioactive waste or spent fuel is to be exported from the Community to a third country, the holder shall submit an application for authorisation to the competent authorities of the Member State of origin. The application may be sent in respect of more than one shipment, under the conditions set out in Article 6(2).

2. The competent authorities of the Member State of origin shall:

(a) notify the competent authorities of the country of destination of the planned shipment and ask their consent; and

(b) send the application referred to in paragraph 1 for consent to the competent authorities of the Member States of transit, if any.

Article 8 shall apply.

3. If all the consents necessary for shipment have been given, the competent authorities of the Member State of origin shall be entitled to authorise the holder to carry out the shipment and shall inform the competent authorities of the third country of destination and of any Member State or third country of transit accordingly.

Article 10(2), (3) and (4) shall apply.

4. The holder shall notify the competent authorities of the Member State of origin that the radioactive waste or spent fuel has reached its destination in the third country within 15 days of the date of arrival and shall indicate the last customs post in the Community through which the shipment passed.

The notification shall be substantiated by a declaration or certification by the consignee stating that the radioactive waste or spent fuel has reached its proper destination and indicating the customs post of entry in the third country.

5. The Member State of origin or any Member State of transit may decide that the shipment may not be completed if the conditions for shipment are no longer complied with in accordance with this Directive, or are not in accordance with the authorisations or consents issued pursuant to this Directive. Such Member State of transit shall forthwith inform the competent authorities of the Member State of origin of this decision.

Article 12(2) and (3), shall apply.

Article 16

Prohibited exports

1. The competent authorities of Member States shall not authorise shipments:

- (a) to a destination south of latitude 60° south; or
- (b) to a State which is party to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, (Cotonou ACP-EC Agreement) which is not a Member State, without prejudice to Article 2, or
- (c) to a third country which does not, in the opinion of the competent authorities of the Member State of origin, in accordance with the criteria referred to in paragraph 2 of this Article, have the administrative and technical capacity and regulatory structure to manage the radioactive waste or spent fuel safely, as stated in the Joint Convention. In coming to an opinion on this issue, Member States shall

take duly into account any relevant information from other Member States. In this respect, Member States shall inform the Commission and the Advisory committee, as set up under Article 21 on a yearly basis.

2. The Commission shall, in accordance with the procedure laid down in Article 21, establish criteria, taking due account of, *inter alia*, relevant safety standards of the International Atomic Energy Agency (IAEA), facilitating Member States to evaluate whether requirements for exports are met.

CHAPTER 4

GENERAL PROVISIONS

Article 17

Use of a standard document

1. A standard document shall be used for all shipments within the scope of this Directive.
2. The Commission shall, in accordance with the procedure laid down in Article 21, establish the standard document which shall include as an Annex a list of the minimum requirements of a duly completed application.

The standard document and its Annexes shall be published in the *Official Journal of the European Union* and be made available in electronic form not later than 25 December 2008. If necessary, it shall be updated following the same procedure.

3. The application for authorisation shall be completed and any further documentation and information referred to in Articles 10, 13, 14 and 15 shall be supplied in a language that is acceptable to the competent authorities of the Member State to whom the application for authorisation is submitted in accordance with this Directive.

An authenticated translation shall be supplied by the holder at the request of the competent authorities of the country of destination or transit in a language acceptable to them.

4. Any additional requirements for authorising a shipment shall be attached to the standard document.

5. Without prejudice to any other accompanying documents required under other relevant legal provisions, the completed standard document certifying that the authorisation procedure has been duly complied with shall accompany each shipment falling under the scope of this Directive, including cases where the authorisation relates to more than one shipment in a single document.

6. These documents shall be available to the competent authorities of the country of origin and destination and any country of transit.

Article 18

Competent authorities

1. Member States shall forward to the Commission not later than 25 December 2008 the name(s) and the address(es) of the competent authority or authorities and all necessary information for rapidly communicating with such authorities.

2. Member States shall regularly forward to the Commission any changes to such data.

Article 19

Transmission

1. The Commission shall, in accordance with the procedure laid down in Article 21, establish recommendations for a secure and effective system of transmission of the documents and information relating to the provisions of this Directive.

2. The Commission shall establish and maintain an electronic communication platform to publish;

(a) the name(s) and address(es) of the competent authority or authorities of each Member State;

(b) the languages acceptable to the competent authorities of each Member State; and

(c) all general conditions and additional requirements, if any, necessary for the competent authorities of each Member State to authorise a shipment.

Article 20

Regular reports

1. By 25 December 2011 and every three years afterwards, Member States shall forward to the Commission reports on the implementation of this Directive.

2. On the basis of these reports, the Commission shall, in accordance with the procedure laid down in Article 21, establish a summary report for the European Parliament, the Council and the European Economic and Social Committee, paying particular attention to the implementation of Article 4.

Article 21

Advisory committee

1. In performing the tasks laid down in Articles 16(2), 17(2), 19(1) and Article 20(2) the Commission shall be assisted by a Committee of an advisory nature composed of representatives of the Member States and chaired by a representative of the Commission (hereinafter referred to as the Committee).

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the Chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

3. The opinion shall be recorded in the minutes. Each Member State shall have the right to ask to have its position recorded in the minutes.

4. The Commission shall take account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which its opinion has been taken into account.

Article 22

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 25 December 2008. They shall forthwith inform the Commission thereof.

When they are adopted by the Member States, these measures shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 23

Repeal

1. Directive 92/3/Euratom shall be repealed with effect from 25 December 2008, without prejudice to the obligations of the Member States relating to the time limit for transposition into national law and application of that Directive.

2. References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in the Annex.

*Article 24***Transitional provisions**

1. Where the application for authorisation has been duly approved by or submitted to the competent authorities of the country of origin before 25 December 2008, Directive 92/3/Euratom shall apply to all shipment operations covered by the same authorisation.

2. When deciding on applications for authorisation submitted before 25 December 2008, for more than one shipment of radioactive waste or spent fuel to a third country of destination, the Member State of origin shall take account of all relevant circumstances, and in particular:

- (a) the planned time schedule for carrying out all shipments covered by the same application;
- (b) the justification for including all shipments in the same application;
- (c) the appropriateness of authorising a number of shipments lower than that covered by the application.

3. Until the standard document provided for in Article 17 of this Directive becomes available, the standard document established by Commission Decision 93/552/Euratom⁽¹⁾ shall be used *mutatis mutandis* for the purposes of this Directive.

*Article 25***Entry into force**

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

Article 26

This Directive is addressed to the Member States.

Done at Brussels, 20 November 2006.

For the Council

The President

J. KORKEAOJA

⁽¹⁾ Commission Decision 93/552/Euratom of 1 October 1993 establishing the standard document for the supervision and control of shipments of radioactive waste referred to in Council Directive 92/3/Euratom (OJ L 268, 29.10.1993, p. 83).

ANNEX

CORRELATION TABLE

Directive 92/3/Euratom	This Directive
Article 1	Article 1
Article 2	Article 5
Article 3	First recital
Article 4, first subparagraph, first sentence	Article 6(1)
Article 4, first subparagraph, second sentence	Article 7(1)
Article 4, second subparagraph	Article 17(1)
Article 4, third subparagraph	none
Article 5(1)	Article 6(2)
Article 5(2)	Article 10(4)
Article 6(1), first subparagraph	Article 9(1)
Article 6(1), second subparagraph	Article 17(1)
Article 6(2)	Article 9(3)
Article 6(3)	Article 9(1), second subparagraph
Article 6(4)	Article 9(2)
Article 7, first subparagraph	Article 10(1)
Article 7, second subparagraph	Article 17(1)
Article 7, third subparagraph	Article 10(2)
Article 8	Article 17(5)
Article 9(1), first part of the sentence	Article 11(1)
Article 9(1), end part of the sentence	Article 17(1)
Article 9(2), first sentence	Article 11(2)
Article 9(2), second sentence	Article 11(3)
Article 10(1)	Article 13
Article 10(1), end of the first sentence	Article 17(1)
Article 10(2)	Article 14
Article 10(3)	Article 13
Article 11	Article 16(1)
Article 12(1)	Article 15(1)
Article 12(2)	Article 15(3)
Article 12(3)	Article 10(2)
Article 12(4)	Article 17(1)
Article 12(5)	Article 15(4), first subparagraph
Article 12(6)	Article 15(4), second subparagraph

Directive 92/3/Euratom	This Directive
Article 13	Article 1(3)
Article 14	Article 2
Article 15(1)	Article 12(2)
Article 15(2)	Article 13(1), second subparagraph
Article 16	Article 9(4)
Article 17	Article 18
Article 18	Article 20
Article 19	Article 21
Article 20, (first, second and third indents)	Article 17(1)
Article 20, fourth indent	Article 16(2)
Article 20, fifth indent	Article 20(2)
Article 21	Article 22
Article 22	Article 26
	Article 3(new)
	Article 4(new)
	Article 8(new)
	Article 19(new)
	Article 23(new)
	Article 24(new)
	Article 25(new)

**COUNCIL DIRECTIVE 2003/122/EURATOM
of 22 December 2003**

on the control of high-activity sealed radioactive sources and orphan sources

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Articles 31(2) and 32 thereof,

Having regard to the proposal from the Commission, drawn up after obtaining the opinion of a group of persons appointed by the Scientific and Technical Committee from among scientific experts in the Member States, in accordance with Article 31 of the Treaty,

After consulting the European Economic and Social Committee,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas:

- (1) Article 30 of the Treaty requires basic standards to be laid down within the Community for the protection of the health of workers and the general public against the dangers arising from ionising radiation.
- (2) Council Directive 96/29/Euratom of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation ⁽²⁾, continues the line of directives laying down basic safety standards since 1959.
- (3) Article 4(1)(e) of Directive 96/29/Euratom requires prior authorisation for, amongst other practices, the use of radioactive sources for industrial radiography or processing of products or research or the exposure of persons for medical treatment. It is appropriate to extend this requirement to all practices involving high-activity radioactive sources in order further to reduce the likelihood of accidents involving such sources.
- (4) Prior to authorisation, adequate arrangements and provision for the safe management of sources should exist.
- (5) The International Atomic Energy Agency (IAEA) issues regulations for the safe transport of radioactive material that include activity limits for the requirements of the regulations, which should provide an appropriate basis for defining high-activity sealed radioactive sources within the scope of this Directive ⁽³⁾.
- (6) In Directive 96/29/Euratom exemption values were laid down for the reporting of a practice to the authorities. These values were defined in that Directive on the basis of a negligible level of risk. As the requirements of this Directive should not put an administrative burden on the holders of small sources that is not commensurate with the possible health detriment, the definition of high activity radioactive sources should not be extended to the exemption levels of Directive 96/29/Euratom.
- (7) Shipments of sealed sources between Member States are subject to the procedure established by Council Regulation (Euratom) No 1493/93 of 8 June 1993 on shipments of radioactive substances between Member States ⁽⁴⁾.
- (8) Although the legal requirements deriving from existing legislation at Community and at national level ensure basic protection, high-activity sources still imply considerable potential risks for human health and for the environment and therefore need to be subject to a strict control from the time they are manufactured to the time they are placed in a recognised installation for their long-term storage or disposal.
- (9) Prevention of radiological accidents and injuries requires the location of each high-activity source to be known, recorded and verified from the time the source is manufactured or imported into the Community to the time it is placed in a recognised installation for its long-term storage or disposal or it is exported from the Community. Changes in the situation of a high-activity source, e.g. its location or use, should also be recorded and notified. Physical or financial obstacles should not hinder any appropriate reuse, recycling or disposal of such sources when disused under any reasonably foreseeable circumstances.
- (10) Cases of unintentional exposure should be notified to the competent authority.
- (11) Movements within the Community of high-activity sources make it necessary to harmonise the control of and information on such sources through the application of minimum criteria.
- (12) Experience shows that, despite the existence of an appropriate regulatory framework, control of high-activity sources may nevertheless be lost. Furthermore, the existence of orphan sources resulting from past activities requires that specific initiatives be undertaken.

⁽¹⁾ Opinion of 18 November 2003 (not yet published in the Official Journal).

⁽²⁾ OJ L 159, 29.6.1996, p. 1.

⁽³⁾ IAEA Safety Standards Series No TS-R-1 (ST, Revised), Vienna, 2000.

⁽⁴⁾ OJ L 148, 19.6.1993, p. 1.

- (13) Accordingly, it is necessary to provide for the identification, marking and recording of each high-activity source as well as for the specific training and informing of all those involved in activities relating to the use of sources. However, the marking of existing high-activity sources by engraving or stamping by persons other than the manufacturer could be problematic and should be avoided. It is also advisable to provide appropriate training and information for those who may deal accidentally with orphan sources.
- (14) It is also necessary to provide for suitable means of dealing with orphan high-activity sources for international cooperation and exchange of information in this area, for inspection and, finally, for making financial provision for cases in which the original holder either cannot be identified or, even if identified, is found to be insolvent.
- (15) The Member States should lay down rules on penalties applicable to infringements of the provisions of this Directive and ensure that they are implemented; those penalties should be effective, proportionate and dissuasive,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Purpose and scope

1. The purpose of this Directive is to prevent exposure of workers and the public to ionising radiation arising from inadequate control of high-activity sealed radioactive sources and orphan sources and to harmonise controls in place in the Member States by defining specific requirements ensuring that each such source is kept under control.
2. This Directive applies to high-activity sources as defined in Article 2. Member States may exclude sources from the scope of this Directive once their activity has fallen below the exemption levels specified in Directive 96/29/Euratom.
3. The minimum obligations resulting from this Directive supplement those set out in Directive 96/29/Euratom.

Article 2

Definitions

For the purpose of this Directive, the following definitions shall apply:

- (a) 'orphan source' means a sealed source, the activity level of which, at the time of its discovery, is above the exemption level referred to in Article 3(2)(a) of Directive 96/29/

Euratom, and which is not under regulatory control, either because it has never been under regulatory control or because it has been abandoned, lost, misplaced, stolen or transferred, without proper notification of the competent authority, to a new holder or without informing the recipient;

- (b) 'high-activity source', hereinafter referred to as 'source', means a sealed source containing a radionuclide whose activity at the time of manufacture or, if this is not known, of the first placing on the market is equal to or exceeds the relevant activity level specified in Annex I;
- (c) 'practice' has the meaning given to it by Directive 96/29/Euratom;
- (d) 'authorisation' means permission granted in a document by competent authorities, on request, to carry out a practice involving a source;
- (e) 'competent authority' means any authority designated by a Member State to carry out tasks in accordance with this Directive;
- (f) 'disused source' means a source which is no longer used or intended to be used for the practice for which authorisation was granted;
- (g) 'holder' means any natural or legal person who is responsible under national law for a source, including manufacturers, suppliers and users of sources but excluding 'recognised installations';
- (h) 'manufacturer' means any natural or legal person who manufactures a source;
- (i) 'recognised installation' means a facility located in the territory of a Member State authorised by the competent authorities of that State in accordance with national law for the long-term storage or disposal of sources or an installation duly authorised under national law for the interim storage of sources;
- (j) 'exposed worker' has the meaning given to it by Directive 96/29/Euratom;
- (k) 'sealed source' has the meaning given to it by Directive 96/29/Euratom and includes the capsule, where applicable, enclosing the radioactive material as an integral part of the source;
- (l) 'supplier' means any natural or legal person who supplies or makes available a source;
- (m) 'transfer' of a source means a transfer of a source from one holder to another one;
- (n) 'source container' means the containment of a sealed source not being an integral part of the source, but meant for transport, handling, etc.

*Article 3***Authorisation**

1. Member States shall require the holder to obtain prior authorisation for any practice involving a source, including taking possession of a source.
2. Member States shall ensure that, before issuing authorisation:
 - (a) adequate arrangements, including those arising from this Directive, have been made for the safe management of sources, including when they become disused sources. These latter arrangements may provide for the transfer of these sources to the supplier or their placement in a recognised installation or an obligation for the manufacturer or the supplier to receive these sources;
 - (b) adequate provision, by way of a financial security or any other equivalent means appropriate to the source in question, have been made for the safe management of sources when they become disused sources, including the case where the holder becomes insolvent or goes out of business.
3. Member States shall ensure that the authorisation covers:
 - (a) responsibilities;
 - (b) minimum staff competencies, including information and training;
 - (c) minimum source, source container and additional equipment performance criteria;
 - (d) requirements for emergency procedures and communication links;
 - (e) work procedures to be followed;
 - (f) maintenance of equipment, sources and containers;
 - (g) adequate management of disused sources, including agreements regarding the transfer, if appropriate, of disused sources to a supplier, another authorised holder or a recognised installation.

*Article 4***Transfers**

Member States shall set up a system to enable them to be adequately informed of individual transfers of sources.

*Article 5***Records**

1. The holder shall keep records of all sources under his responsibility, their location and their transfer. The records shall include the information set out in Annex II. This information may be recorded on a standard record sheet pursuant to paragraph 5.

2. The holder shall provide the competent authority with an electronic or written copy of all or part of the records referred to in paragraph 1, as required by the Member State concerned,

- without undue delay, at the time of the establishment of such records, which should be as soon as possible after the source is acquired,
- at intervals, to be determined by Member States/competent authorities, of not more than 12 months thereafter,
- if the situation indicated on the information sheet has changed,
- without undue delay on the closure of the records for a specific source when the holder no longer holds this source; in this case the name of the holder or recognised installation to which the source is transferred shall be included,
- without undue delay on the closure of such records when the holder no longer holds any sources, and
- whenever so requested by the competent authority.

The holder's records shall be available for inspection by the competent authority.

3. The competent authorities shall keep records of authorised holders and of the sources they hold. These records shall include the radionuclide involved, the activity at the time of manufacture, or if this activity is not known, the activity at the time of the first placing on the market or at the time the holder acquired the source, and the type of source.

4. The competent authorities shall keep the records up to date, taking transfers into account, among other factors.

5. The Commission shall make available in electronic format the standard record sheet for the records set out in Annex II.

6. The Commission may, in accordance with the procedure referred to in Article 17, update the required information set out in Annex II and the standard record sheet for the records set out in Annex II.

*Article 6***Requirements for holders**

Each holder of sources shall:

- (a) ensure that suitable tests, such as leak tests based on international standards, are undertaken regularly in order to check and maintain the integrity of each source;

- (b) regularly verify, at specific intervals which may be determined by Member States, that each source and, where relevant, the equipment containing the source, is still present and in apparently good condition at its place of use or of storage;
- (c) ensure that each fixed and mobile source is subject to adequate documented measures, such as written protocols and procedures, aimed at preventing unauthorised access to or loss or theft of the source or its damage by fire;
- (d) promptly notify the competent authority of any loss, theft or unauthorised use of a source, arrange for a check on the integrity of each source after any event, including fire, that may have damaged the source and, if appropriate, inform the competent authority thereof and of the measures taken;
- (e) return each disused source to the supplier or place it in a recognised installation or transfer it to another authorised holder unless otherwise agreed by the competent authority, without undue delay after termination of the use;
- (f) ascertain that, before a transfer is made, the recipient holds appropriate authorisation;
- (g) promptly notify the competent authority of any incident or accident resulting in unintentional exposure of a worker or a member of the public.

Article 7

Identification and marking

1. The manufacturer shall identify or, in the case of sources imported from outside the Community, the supplier shall ensure that each source is identified by a unique number. This number shall be engraved or stamped on the source, where practicable.

This number shall also be engraved or stamped on the source container. If this is not feasible or in the case of reusable transport containers, the source container shall at least have information on the nature of the source.

The manufacturer or the supplier shall ensure that the source container and, where practicable, the source are marked and labelled with an appropriate sign to warn people of the radiation hazard.

The manufacturer shall provide a photograph of each manufactured source design type and of the typical source container.

2. The holder shall ensure that each source is accompanied by written information indicating that the source is identified and marked in compliance with paragraph 1 and that the markings and labels referred to in paragraph 1 remain legible. The information shall include photographs of the source, source container, transport packaging, device and equipment as appropriate.

Article 8

Training and information

1. When arranging information and training in the field of radiation protection in compliance with Article 22 of Directive 96/29/Euratom, the holder shall ensure that such training includes specific requirements for the safe management of sources.

The information and training shall place particular emphasis on the necessary safety requirements and shall contain specific information on possible consequences of the loss of adequate control of sources.

The information and training shall be repeated at regular intervals and documented, with a view to preparing the relevant workers adequately for such events.

The relevant information and training shall be addressed to exposed workers.

2. Member States shall provide encouragement to ensure that the management and workers in installations where orphan sources are most likely to be found or processed (e.g. large metal scrap yards and major metal scrap recycling plants), and the management and workers in significant nodal transit points (e.g. customs posts), are

- (a) informed of the possibility that they may be confronted with a source;
- (b) advised and trained in the visual detection of sources and of their containers;
- (c) informed of basic facts about ionising radiation and its effects;
- (d) informed of and trained in the action to be taken on site in the event of the detection or suspected detection of a source.

Article 9

Orphan sources

1. Member States shall ensure that the competent authorities are prepared, or have made provision, including assignment of responsibilities, to recover orphan sources and to deal with radiological emergencies due to orphan sources and have drawn up appropriate response plans and measures.

2. Member States shall ensure that specialised technical advice and assistance is promptly made available to the persons, not normally involved in operations subject to radiation protection requirements, who suspect the presence of an orphan source. The primary aim of advice and assistance shall be the protection of workers and members of the public from radiation and the safety of the source.

3. Member States shall encourage the establishment of systems aimed at detecting orphan sources in places such as large metal scrap yards and major metal scrap recycling installations where orphan sources may generally be encountered, or at significant nodal transit points, wherever appropriate, such as customs posts.

4. Member States shall ensure that campaigns are organised, as appropriate, to recover orphan sources left behind from past activities.

The campaigns may include the financial participation of Member States in the costs of recovering, managing and disposing of the sources and may also include surveys of historical records of authorities, such as customs, and of holders, such as research institutes, material testing institutes or hospitals.

Article 10

Financial security for orphan sources

Member States shall ensure that, on the basis of arrangements to be decided by Member States, a system of financial security is established or any other equivalent means to cover intervention costs relating to the recovery of orphan sources and which may result from implementation of the requirements set out in Article 9.

Article 11

International cooperation and information exchange

Each Member State shall promptly exchange information and cooperate with other relevant Member States or third countries and with relevant international organisations as regards loss, removal, theft or discovery of sources and as regards related follow-up or investigations, without prejudice to relevant confidentiality requirements and relevant national regulations.

Article 12

Inspections

Member States shall establish or maintain a system of inspection to enforce the provisions introduced in compliance with this Directive.

Article 13

Competent authority

1. Member States shall designate the competent authority to carry out tasks in accordance with this Directive.

2. Member States shall forward to the Commission the name and the address of the competent authority and all necessary information for rapidly communicating with such authorities.

3. Where Member States have more than one competent authority, they shall designate one point of contact to act as an interface with correspondents in other Member States.

4. Member States shall forward to the Commission any changes to the data referred to in paragraphs 2 and 3.

5. The Commission shall communicate the information referred to in paragraphs 2, 3 and 4 to all competent authorities in the Community and shall publish it periodically in the *Official Journal of the European Union*, at intervals of no more than two years.

Article 14

Report on experience

By 31 December 2010, Member States shall report to the Commission on the experience gained in the implementation of this Directive, including consideration of any effect which Article 1(2) may have had.

On that basis, the Commission shall submit a report to the European Parliament, the Council and the European Economic and Social Committee.

Article 15

Penalties

Member States shall determine the penalties applicable to breaches of the national provisions adopted pursuant to this Directive. The penalties shall be effective, proportionate and dissuasive.

Article 16

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 31 December 2005.

Member States may provide, as regards sources placed on the market before the date referred to in the first subparagraph, that:

- (a) Articles 3 to 6 shall not apply until 31 December 2007;
- (b) Article 7 shall not apply, with the exception of the following requirements which shall apply by 31 December 2007 at the latest:
 - the holder shall ensure that, if practicable, each such source and the source container are accompanied by written information to identify the source and its nature,
 - the holder shall ensure that, if practicable, each such source, if practicable, and the source container are labelled with an appropriate sign to warn people of the radiation hazard.

Where these measures are adopted by the Member States, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive, together with a table showing how the provisions of this Directive correspond to the national provisions adopted.

Article 17

Committee

The Commission shall be assisted in performing the tasks laid down in Article 5(6) by an Advisory Committee composed of the representatives of the Member States and chaired by the representative of the Commission.

The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the Chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

The opinion of the Committee shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which its opinion has been taken into account.

Article 18

Entry into force

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

Article 19

This Directive is addressed to the Member States.

Done at Brussels, 22 December 2003.

For the Council

The President

A. MATTEOLI

ANNEX I

Activity levels

For radionuclides not listed in the table below, but referred to in Annex I, Table A, of Directive 96/29/Euratom, the relevant activity level is one hundredth of the corresponding A1 value given in the IAEA Regulations for the safe transport of radioactive materials ⁽¹⁾.

Element (Atomic number)	Radionuclide	Activity level (Bq)
Iron (26)	Fe-55	4×10^{11}
Cobalt (27)	Co-60	4×10^9
Selenium (34)	Se-75	3×10^{10}
Krypton (36)	Kr-85	1×10^{11}
Strontium (38)	Sr-90 ^(a)	3×10^9
Palladium (46)	Pd-103 ^(a)	4×10^{11}
Iodine (53)	I-125	2×10^{11}
Caesium (55)	Cs-137 ^(a)	2×10^{10}
Promethium (61)	Pm-147	4×10^{11}
Gadolinium (64)	Gd-153	1×10^{11}
Thulium (69)	Tm-170	3×10^{10}
Iridium (77)	Ir-192	1×10^{10}
Thallium (81)	Tl-204	1×10^{11}
Radium (88)	Ra-226 ^(b)	2×10^9
Plutonium (94)	Pu-238 ^(a)	1×10^{11}
Americium (95)	Am-241 ^(b)	1×10^{11}
Californium (98)	Cf-252	5×10^8

^(a) The activity level includes contributions from daughter nuclides with half-lives less than 10 days.

^(b) Includes neutron sources with beryllium.

⁽¹⁾ No TS-R-1 (ST-1, revised) — International Atomic Energy Agency, Vienna 2000.

ANNEX II

STANDARD RECORD SHEET FOR HIGH-ACTIVITY SEALED SOURCES (HASS) (*optional in italics*)

<p>1. HASS identification number:</p>	<p>2. Identification of authorised holder</p> <p>Name: _____ Address: _____ Country: _____</p> <p>Manufacturer <input type="checkbox"/> Supplier <input type="checkbox"/> User <input type="checkbox"/></p>	<p>3. Location of HASS (Use or storage if not the same as in 2.)</p> <p>Name: _____ Address: _____</p> <p>Fixed use <input type="checkbox"/> Storage (mobile) <input type="checkbox"/></p>
<p>4. Registration</p> <p>Date of start of registration: _____ Date of transfer of registration to historic file: _____</p>	<p>5. Authorisation</p> <p>Number: _____ Date of issue: _____ Date of expiry: _____</p>	<p>6. Operational control of HASS</p> <p>Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____ Date: _____</p>
<p>7. HASS characteristic</p> <p>Radionuclide: _____ Activity at the date of manufacturing or of the first placing on the market: _____ Date of manufacturing: _____ Manufacturer/Supplier: ⁽¹⁾ _____ Name: _____ Address: _____ Country: _____</p> <p>Physical and chemical characteristics: _____ Source type identification: _____ Capsule identification: _____ ISO classification: _____ ANSI classification: _____ Special form certificate: _____</p>	<p>8. Receipt of HASS</p> <p>Date of receipt: _____ Receipt from: _____ Name: _____ Address: _____ Country: _____</p> <p>Manufacturer <input type="checkbox"/> Supplier <input type="checkbox"/> Another user <input type="checkbox"/></p>	<p>9. Transfer of HASS</p> <p>Date of transfer: _____ Transfer to: _____ Name: _____ Address: _____ Country: _____</p> <p>Manufacturer <input type="checkbox"/> Supplier <input type="checkbox"/> Another user <input type="checkbox"/></p> <p>Recognised installation: _____</p>
		<p>10. Further information</p> <p>Loss <input type="checkbox"/> Date of Loss: _____ Theft <input type="checkbox"/> Date of Theft: _____</p> <p>Finding: _____ date: _____ yes <input type="checkbox"/> no <input type="checkbox"/></p> <p>Other information: _____ place: _____</p>

⁽¹⁾ Where the manufacturer of the sources is established outside the Community, the name and address of the importer-supplier may be provided instead.

I

(Acts whose publication is obligatory)

COUNCIL DIRECTIVE 96/26/EC

of 29 April 1996

on admission to the occupation of road haulage operator and road passenger transport operator and mutual recognition of diplomas, certificates and other evidence of formal qualifications intended to facilitate for these operators the right to freedom of establishment in national and international transport operations

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 75 thereof,

Having regard to the proposal from the Commission⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee⁽²⁾,

Acting in accordance with the procedure referred to in Article 189c of the Treaty⁽³⁾,

Whereas Council Directive 74/561/EEC of 12 November 1974 on admission to the occupation of road haulage operator in national and international transport operations⁽⁴⁾, Council Directive 74/562/EEC of 12 November 1974 on admission to the occupation of road passenger transport operator in national and international transport operations⁽⁵⁾ and Council Directive 77/796/EEC of 12 December 1977 aiming at the mutual recognition of diplomas, certificates and other evidence of formal qualifications for goods haulage operators and road passenger transport operators,

including measures intended to encourage these operators effectively to exercise their right to freedom of establishment⁽⁶⁾ have been substantially amended on a number of occasions; whereas, for reasons of rationality and clarity, the said Directives should be consolidated in a single text;

Whereas the organization of the transport market is one of the essential factors in the implementation of the common transport policy provided for in the Treaty;

Whereas the adoption of measures aimed at coordinating the conditions of admission to the occupations of road haulage or road passenger transport operators (hereinafter both referred to as 'road transport operator') is likely to favour effective exercise of the right of establishment of those operators;

Whereas it is necessary to provide for the introduction of common rules for admission to the occupation of road transport operator in national and international transport operations in order to ensure that such operators are better qualified, thus contributing to rationalization of the market, improvement in the quality of the service provided, in the interests of users, operators and the economy as a whole, and to greater road safety;

Whereas, therefore, the rules for admission to the occupation of road transport operator should cover the good repute, financial standing and professional competence of operators;

Whereas, however, it is not necessary to include in these common rules certain kinds of transport which are of limited economic importance;

Whereas, since 1 January 1993, access to the market of transfrontier road haulage transport operations has been

⁽¹⁾ OJ No C 286, 14. 11. 1990, p. 4 and amendment forwarded on 16 December 1993.

⁽²⁾ OJ No C 339, 31. 12. 1991, p. 5 and OJ No C 295, 22. 10. 1994, p. 30.

⁽³⁾ Opinion of the European Parliament of 13 December 1991 (OJ No C 13, 20. 1. 1992, p. 443) and of 20 April 1994 (OJ No C 128, 9. 5. 1994, p. 136), common position of the Council of 8 December 1995 (OJ No C 356, 30. 12. 1995) and Decision of the European Parliament of 28 March 1996 (not yet published in the Official Journal).

⁽⁴⁾ OJ No L 308, 19. 11. 1974, p. 18. Directive as last amended by Regulation (EEC) No 3572/90 (OJ No L 353, 17. 12. 1990, p. 12).

⁽⁵⁾ OJ No L 308, 19. 11. 1974, p. 23. Directive as last amended by Regulation (EEC) No 3572/90 (OJ No L 353, 17. 12. 1990, p. 12).

⁽⁶⁾ OJ No L 334, 24. 12. 1977, p. 37. Directive as last amended by Directive 89/438/EEC (OJ No L 212, 22. 7. 1989, p. 101) and corrigendum (OJ No L 298, 17. 10. 1989, p. 31).

governed by a system of Community licences issued on the basis of qualitative criteria;

Whereas, as regards the good-repute requirement, it is necessary, in order effectively to reorganize the market, to make admission to the pursuit of the occupation of road transport operator uniformly conditional on the applicant having no convictions for serious criminal offences, including offences of a commercial nature, not having been declared unfit to pursue the occupation and on compliance with the regulations applicable to the occupation of road transport operator;

Whereas, as regards the requirement of appropriate financial standing, it is necessary, in particular in order to ensure the equal treatment of undertakings in the various Member States, to lay down certain criteria which road transport operators must satisfy;

Whereas, in respect of good repute and financial standing, it would be appropriate to acknowledge relevant documents issued by a competent authority in the road transport operator's country of origin or the country whence he comes as sufficient proof for admission to the activities concerned in a host Member State;

Whereas, as regards the requirement of professional competence, it is advisable to stipulate that the applicant road transport operator demonstrate such competence by passing a written examination but that Member States may exempt the applicant from such an examination if he provides proof of sufficient practical experience;

Whereas, in respect of professional competence, the certificates issued pursuant to the Community provisions on admission to the occupation of road transport operator must be recognized as sufficient proof by the host Member State;

Whereas provisions should be made for a system of mutual assistance between Member States for the purpose of applying this Directive;

Whereas this Directive must not affect the obligations of the Member States concerning the deadlines for implementation or application of the Directives set out in Annex II, part B,

HAS ADOPTED THIS DIRECTIVE:

TITLE I

Admission to the occupation of road transport operator

Article 1

1. Admission to the occupations of road haulage operator or road passenger transport operator shall be

governed by the provisions adopted by the Member States in accordance with the common rules contained in this Directive.

2. For the purposes of this Directive:

- 'the occupation of road haulage operator' shall mean the activity of any undertaking transporting goods for hire or reward by means of either a self-contained motor vehicle or a combination of coupled vehicles,
- 'the occupation of road passenger transport operator' shall mean the activity of any undertaking operating, by means of motor vehicles so constructed and equipped as to be suitable for carrying more than nine persons — including the driver — and intended for that purpose, passenger transport services for the public or for specific categories of users against payment by the person transported or by the transport organizer,
- 'undertaking' shall mean any natural person, any legal person, whether profit-making or not, any association or group of persons without legal personality, whether profit-making or not, or any official body, whether having its own legal personality or being dependent upon an authority having such personality.

Article 2

1. This Directive shall not apply to undertakings engaged in the occupation of road haulage operator by means of vehicles the permissible payload of which does not exceed 3,5 tonnes or the permissible total laden weight of which does not exceed 6 tonnes. Member States may, however, lower the said limits for all or some categories of transport operations.

2. Member States may, after consulting the Commission, exempt from the application of all or some of the provisions of this Directive road haulage undertakings engaged exclusively in national transport operations having only a minor impact on the transport market because of:

- the nature of the goods carried, or
- the short distance involved.

In the event of unforeseen circumstances, Member States may grant a temporary exemption pending completion of the consultations with the Commission.

3. Member States may, after consulting the Commission, exempt from the application of all or some of the provisions of this Directive undertakings engaged exclusively in certain road passenger transport services

for non-commercial purposes or having a main occupation other than that of road passenger transport operator, in so far as their transport operations have only a minor impact on the transport market.

Article 3

1. Undertakings wishing to engage in the occupation of road transport operator shall:

- (a) be of good repute;
- (b) be of appropriate financial standing;
- (c) satisfy the condition as to professional competence.

Where the applicant is a natural person and does not satisfy requirement (c), the competent authorities may nevertheless permit him to engage in the occupation of road transport operator provided that he designates to the said authorities another person, satisfying requirements (a) and (c), who shall continuously and effectively manage the transport operations of the undertaking.

Where the applicant is not a natural person:

- requirement (a) must be satisfied by the person or persons who will continuously and effectively manage the transport operations of the undertaking. Member States may require that other persons in the undertaking also satisfy this requirement,
- requirement (c) must be satisfied by the person or persons referred to in the first indent.

2. Member States shall determine the conditions which must be fulfilled by undertakings established within their territory in order to satisfy the good-repute requirement.

They shall provide that this requirement is not satisfied, or is no longer satisfied, if the natural person or persons who are deemed to satisfy this condition under paragraph 1:

- (a) have been convicted of serious criminal offences, including offences of a commercial nature,
- (b) have been declared unfit to pursue the occupation of road transport operator under any rules in force,
- (c) have been convicted of serious, repeated offences against the rules in force concerning:

- the pay and employment conditions in the profession, or
- road haulage or road passenger transport, as appropriate, in particular the rules relating to drivers' driving and rest periods, the weights and dimensions of commercial vehicles, road safety and vehicle safety.

In the cases referred to under (a), (b) and (c), the good-repute requirement shall remain unsatisfied until rehabilitation or any other measure having an equivalent effect has taken place, pursuant to the existing relevant national provisions.

3. (a) Appropriate financial standing shall consist in having available sufficient resources to ensure proper launching and proper administration of the undertaking.

(b) For the purposes of assessing financial standing, the competent authority shall have regard to: annual accounts of the undertaking, if any; funds available, including cash at bank, overdraft and loan facilities; any assets, including property, which are available to provide security for the undertaking; costs, including purchase cost or initial payment for vehicles, premises, plant and equipment, and working capital.

(c) The undertaking must have available capital and reserves of at least:

- ECU 3 000 per vehicle used or
- ECU 150 per tonne of the maximum authorized weight of the road haulage vehicles used by the undertaking, or
- ECU 150 per seat of the passenger transport vehicles used by the undertaking,

whichever is the lower.

Member States may derogate from the first subparagraph in the case of transport undertakings which pursue their activities exclusively on the national market.

(d) For the purposes of points (a), (b) and (c), the competent authority may accept as evidence of financial standing confirmation or assurance given by a bank or other suitably qualified establishment. Such confirmation or assurance may be given in the form of a bank guarantee or by any other similar means.

- (e) Points (b), (c) and (d) shall apply only to undertakings authorized in a Member State, as from 1 January 1990, under national rules, to engage in the activities of road transport operator.

4. The condition relating to professional competence shall consist in the possession of skills demonstrated by passing a written examination, which may take the form of a multiple-choice examination, organized by the authority or body designated for this purpose by each Member State in the subjects listed in Annex I.

Member States may exempt from examination applicant road transport operators who provide proof of at least five years' practical experience in a transport undertaking at management level.

Member States may exempt the holders of certain advanced diplomas or technical diplomas which provide proof of a sound knowledge of the subjects listed in Annex I to be defined by them from sitting an examination in the subjects covered by the diplomas.

A certificate issued by the authority or body referred to in the first subparagraph must be produced as proof of professional competence.

Article 4

Member States shall determine the circumstances in which a road transport undertaking may, notwithstanding Article 3 (1), be operated on a temporary basis for a maximum period of one year, with extension for a maximum period of six months, in duly justified special cases, in the event of the death or physical or legal incapacity of the natural person engaged in the occupation of road transport operator or of the natural person who satisfies the requirements of Article 3 (1) (a) and (c).

The competent authorities in the Member States may, by way of exception and in certain special cases, definitively authorize a person not fulfilling the requirement of professional competence referred to in Article 3 (1) (c) to operate the transport undertaking provided that such person possesses at least three years' practical experience in the day-to-day management of the undertaking.

Article 5

1. Undertakings furnishing proof that before:

- 1 January 1978 for Belgium, Denmark, Germany, France, Ireland, Italy, Luxembourg, Netherlands and the United Kingdom,
- 1 January 1984 for Greece,

- 1 January 1986 for Spain and Portugal,
- 3 October 1989 for the territory of the former German Democratic Republic,

they were authorized under national rules in a Member State to engage in the occupation of either road haulage or road passenger transport operator, as appropriate, in national and/or international road transport operations shall be exempt from the requirement to furnish proof that they satisfy the provisions of Article 3.

2. However, those natural persons who:

- after 31 December 1974 and before 1 January 1978 for Belgium, Denmark, Germany, France, Ireland, Italy, Luxembourg, the Netherlands and the United Kingdom,
- after 31 December 1980 and before 1 January 1984 for Greece,
- after 31 December 1982 and before 1 January 1986 for Spain and Portugal,
- after 2 October 1989 and before 1 January 1992 for the territory of the former German Democratic Republic,

were:

- authorized to engage in the occupation of either road haulage or road passenger transport operator, as appropriate, without having furnished proof, under national regulations, of their professional competence, or
- designated effectively and continuously to manage the transport operations of the undertaking,

must have satisfied the condition of professional competence referred to in Article 3 (4) before:

- 1 January 1980 for Belgium, Denmark, Germany, France, Ireland, Italy, Luxembourg, the Netherlands and the United Kingdom,
- 1 January 1986 for Greece,
- 1 January 1988 for Spain and Portugal,
- 1 July 1992 for the territory of the former German Democratic Republic.

The same requirement shall apply in the case referred to in the third subparagraph of Article 3 (1).

Article 6

1. Decisions taken by the competent authorities of the Member States pursuant to the measures adopted on the basis of this Directive and entailing the rejection of an

application for admission to the occupation of road transport operator shall state the grounds on which they are based.

2. Member States shall see to it that the competent authorities withdraw the authorization to pursue the occupation of road transport operator if they establish that the conditions of Article 3 (1) (a), (b) or (c) are no longer satisfied. In this case, however, they shall allow sufficient time for a substitute to be appointed.

3. With regard to the decisions referred to in paragraphs 1 and 2, Member States shall see to it that the undertakings covered by this Directive are able to defend their interests by appropriate means.

Article 7

1. Where serious offences or minor, repeated offences against the rules governing either road haulage or road passenger transport, as appropriate, have been committed by non-resident road transport operators and might lead to withdrawal of the authorization to practise as a road transport operator, the Member States shall provide the Member State in which such a road transport operator is established with all the information in their possession concerning those offences and the penalties they have imposed.

2. If a Member State withdraws the authorization to practise as a road transport operator in international transport operations, it shall inform the Commission, which shall pass the necessary information to the Member States concerned.

3. Member States shall afford each other mutual assistance for the purpose of applying this Directive.

TITLE II

Mutual recognition of diplomas, certificates and other evidence of formal qualifications

Article 8

1. Member States shall, in respect of the activities referred to in this Directive, take the measures defined in this Directive concerning the establishment in their territories of the natural persons and undertakings referred to in Title I of the general programme for the abolition of restrictions on freedom of establishment⁽¹⁾.

2. Without prejudice to paragraphs 3 and 4, a host Member State shall, for the purpose of admission to the

occupation of road transport operator, accept as sufficient proof of good repute or of no previous bankruptcy an extract from a judicial record, or failing that, an equivalent document issued by a competent judicial or administrative authority in the road transport operator's country of origin or the country whence he comes, showing that these requirements have been met.

3. Where the host Member State imposes on its own nationals certain requirements as to good repute and proof that such requirements are satisfied cannot be obtained from the document referred to in paragraph 2, that State shall accept as sufficient evidence in respect of nationals of other Member States a certificate issued by a competent judicial or administrative authority in the country of origin or in the country whence the foreign national comes stating that the requirements in question have been met. Such certificates shall relate to the specific facts regarded as relevant by the host country.

4. Where the country of origin or country whence the foreign national comes does not issue the document required in accordance with paragraphs 2 and 3, such document may be replaced by a declaration on oath or by a solemn declaration made by the person concerned before a competent judicial or administrative authority or, where appropriate, a notary in that person's country of origin or the country whence he comes; such authority or notary shall issue a certificate attesting the authenticity of the declaration on oath or solemn declaration. The declaration in respect of no previous bankruptcy may also be made before a competent professional body in the same country.

5. Documents issued in accordance with paragraphs 2 and 3 shall not be accepted if produced more than three months after their date of issue. This condition shall apply also to declarations made in accordance with paragraph 4.

Article 9

1. Where in a host Member State a certificate is required as proof of financial standing, that State shall regard corresponding certificates issued by banks in the country of origin or in the country whence the foreign national comes or by other financial bodies designated by that country, as equivalent to certificates issued in its own territory.

2. Where a Member State imposes on its own nationals certain requirements as to financial standing and where proof that such requirements are satisfied cannot be obtained from the document referred to in paragraph 1, that State shall accept as sufficient evidence, in respect of nationals of other Member States, a certificate issued by a competent administrative authority in the country of origin or in the country whence the foreign national comes, stating that the requirements in question have been met. Such certificate shall relate to the specific facts regarded as relevant by the host country.

⁽¹⁾ OJ No 2, 15. 1. 1962, p. 36/62.

Article 10

1. As from 1 January 1990, Member States shall recognize as sufficient proof of professional competence certificates as referred to in the fourth subparagraph of Article 3 (4) which are issued by another Member State.

2. With regard to undertakings authorized in Greece, before 1 January 1981, or, in the other Member States, before 1 January 1975, under national rules, to engage in the occupation of road haulage operator or road passenger transport operator in national and/or international road transport and in so far as the undertakings concerned are companies or firms within the meaning of Article 58 of the Treaty, Member States shall accept as sufficient proof of professional competence certificates stating that the activity concerned has actually been carried on in a Member State for a period of three years. This activity must not have ceased more than five years before the date of submission of the certificate.

In the case of a legal person, the certificate stating that the activity has actually been carried on shall be issued in respect of one of the natural persons actually in charge of the transport activities of the undertaking.

3. The certificates issued to road transport operators before 1 January 1990 as proof of their professional competence pursuant to the provisions in force until that date shall be deemed equivalent to the certificates issued pursuant to the provisions of this Directive.

TITLE III

Final provisions

Article 11

Member States shall designate the authorities and bodies competent to issue the documents referred to in Article 8 (2) and in Article 9 and the certificate referred to in Article 10 (2). They shall immediately inform the other Member States and the Commission thereof.

Article 12

Articles 8 to 11 shall also apply to nationals of member States who, pursuant to Council Regulation (EEC) No 1612/68 of 15 October 1968 on freedom of movement for workers within the Community⁽¹⁾, carry on the activities of road haulage or road passenger transport operator in the capacity of employees.

Article 13

1. Member States shall take the measures necessary to comply with the provisions of this Directive, no later than the dates listed in Annex II, part B, after consulting the Commission.

2. Member States shall communicate to the Commission the text of the provisions of national law which they adopt in the field covered by this Directive.

Article 14

The Directives listed in Annex II, part A, are hereby repealed, without prejudice to the obligations of the Member States regarding the time limits for implementation or application set out in Annex II, part B.

References to the repealed Directives shall be construed as references to this Directive and shall be read in accordance with the correlation table set out in Annex III.

Article 15

This Directive is addressed to the Member States.

Done at Luxembourg, 29 April 1996.

For the Council
The President
W. LUCHETTI

⁽¹⁾ OJ No L 257, 19. 10. 1968, p. 2. Regulation as last amended by Regulation (EEC) No 2434/92 (OJ No L 245, 26. 8. 1992, p. 1).

ANNEX I

LIST OF SUBJECTS REFERRED TO IN ARTICLE 3 (4)

The knowledge to be taken into consideration for the official recognition of professional competence must cover at least the subjects listed below. These must be described in full detail and have been worked out or approved by the competent national authorities. They must be so designed as to be within the grasp of those persons whose education corresponds to the level normally reached at school-leaving age.

A. SUBJECTS OF WHICH KNOWLEDGE IS REQUIRED FOR ROAD TRANSPORT OPERATORS INTENDING TO ENGAGE EXCLUSIVELY IN NATIONAL TRANSPORT OPERATIONS

Law

Elements of civil, commercial, social and fiscal law, as necessary for engaging in the occupation, with particular emphasis on:

- general contracts;
- transport contracts, with particular reference to the responsibility of the haulage operator (nature and limits);
- commercial companies;
- ledgers;
- rules governing labour, social security;
- taxation systems.

1. Road haulage operator

(a) *Business and financial management of an undertaking*

- methods of payment and financing;
- costing;
- pricing and haulage terms;
- business accounts;
- insurance;
- invoicing;
- transport agents;
- management techniques;
- marketing.

(b) *Access to the market*

- provisions relating to the taking up and pursuit of the occupation;
- transport documents.

(c) *Technical standards and aspects of operation*

- weight and dimensions of vehicles;
- vehicle selection;
- type-approval and registration;
- vehicle maintenance standards;
- loading and unloading of vehicles;
- carriage of dangerous goods;
- carriage of foodstuffs;
- the relevant environmental protection concepts with reference to the use and maintenance of motor vehicles.

(d) *Road safety*

- laws, regulations and administrative provisions applicable to traffic;
- traffic safety;
- accident prevention and procedure in the event of an accident.

2. **Road passenger transport operator**

(a) *business and financial management of an undertaking*

- methods of payment and financing;
- costing;
- system of fares, prices and conditions of transport;
- business accounts;
- insurance;
- invoices;
- travel agencies;
- management techniques;
- marketing.

(b) *Regulation of road passenger services*

- institution of transport services and transport plans;
- conditions of fulfilment of passenger services;
- provisions relating to admission to, and pursuit of, the occupation;
- transport documents.

(c) *Technical standards and aspects of operation*

- vehicle selection;
- type-approval and registration;
- vehicle maintenance standards;
- the relevant environmental protection concepts with reference to the use and maintenance of motor vehicles.

(d) *Road safety*

- laws, regulations and administrative provisions applicable to traffic;
- traffic safety;
- geographical knowledge of routes;
- accident prevention and procedure in the event of an accident.

B. SUBJECTS OF WHICH KNOWLEDGE IS REQUIRED FOR ROAD TRANSPORT OPERATORS INTENDING TO ENGAGE IN INTERNATIONAL TRANSPORT

Law

- subjects listed under A as appropriate;
- provisions applicable either to the transport of goods or of passengers by road, as appropriate, between Member States and between the Community and non-member countries, arising out of national laws, Community standards, international conventions and agreements;
- customs practices and other formalities related to transport controls;
- main traffic regulations in the Member States.

ANNEX II

PART A

REPEALED DIRECTIVES

(referred to in Article 14)

— Directive 74/561/EEC

— Directive 74/562/EEC

— Directive 77/796/EEC

and their successive amendments:

— Directive 80/1178/EEC

— Directive 80/1179/EEC

— Directive 80/1180/EEC

— Directive 85/578/EEC

— Directive 85/579/EEC

— Directive 89/438/EEC

— Regulation (EEC) No 3572/90: only Articles 1 and 2

PART B

<i>Directive</i>	<i>Deadline for implementation or application</i>
74/561/EEC (OJ No L 308, 19. 11. 1974, p. 18)	1 January 1977 1 January 1978
80/1178/EEC (OJ No L 350, 23. 12. 1980, p. 41)	1 January 1981
85/578/EEC (OJ No L 372, 31. 12. 1985, p. 34)	1 January 1986
89/438/EEC (OJ No L 212, 22. 7. 1989, p. 101)	1 January 1990
74/562/EEC (OJ No L 308, 19. 11. 1974, p. 23)	1 January 1977 1 January 1978
80/1179/EEC (OJ No L 350, 23. 12. 1980, p. 42)	1 January 1981
85/579/EEC (OJ No L 372, 31. 12. 1985, p. 35)	1 January 1986
89/438/EEC (OJ No L 212, 22. 7. 1989, p. 101)	1 January 1990
77/796/EEC (OJ No L 334, 24. 12. 1977, p. 37)	1 January 1979
80/1180/EEC (OJ No L 350, 23. 12. 1980, p. 43)	1 January 1981
89/438/EEC (OJ No L 212, 22. 7. 1989, p. 101)	1 January 1990

ANNEX III

CORRELATION TABLE

Directive 74/561/EEC	Directive 74/562/EEC	Directive 89/438/EEC	Directive 77/796/EEC	This Directive
Article 1 (1)	Article 1 (1)			Article 1 (1)
Article 1 (2) first indent	—			Article 1 (2) first indent
—	Article 1 (2) first indent			Article 1 (2) second indent
Article 1 (2) second indent	Article 1 (2) second indent			Article 1 (2) third indent
Article 2 (1), (2)	—			Article 2 (1), (2)
—	Article 1 (3)			Article 2 (3)
Article 3	Article 2			Article 3
Article 4	Article 3			Article 4
Article 5	Article 4			Article 5
Article 6	Article 5			Article 6
Article 6a	Article 5a			Article 7
Article 7	Article 6			—
			Article 1 (1)	Article 8 (1)
			Article 3	Article 8 (2)
			Article 4	Article 9
			Article 5 (1)	Article 10 (1)
			Article 5 (2)	Article 10 (2)
—	—	Article 4		Article 10 (3)
			Article 6	Article 11
			Article 1 (2)	Article 12
—	—	Article 5		Article 13
—	—			Article 14
Article 8	Article 7			Article 15
Annex point A. 1	Annex point A. 1			Annex I point A (Law)
Annex point A. 2, 3, 4, 5	—			Annex I point A. 1 (a), (b), (c), (d)
—	Annex point A. 2, 3, 4, 5			Annex I point A. 2 (a), (b), (c), (d)
Annex point B	Annex point B			Annex I point B
—	—	—	—	Annex II Part A
—	—	—	—	Annex II Part B
—	—	—	—	Annex III

II

(Non-legislative acts)

DIRECTIVES

COUNCIL DIRECTIVE 2013/59/EURATOM

of 5 December 2013

laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Articles 31 and 32 thereof,

Having regard to the proposal from the European Commission, drawn up after having obtained the opinion of a group of persons appointed by the Scientific and Technical Committee from among scientific experts in the Member States, and after having consulted the European Economic and Social Committee,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the European Economic and Social Committee,

Whereas:

- (1) Point (b) of Article 2 of the Euratom Treaty provides for the establishment of uniform safety standards to protect the health of workers and of the general public. Article 30 of the Euratom Treaty defines "basic standards" for the protection of the health of workers and the general public against the dangers arising from ionising radiations.
- (2) In order to perform its task, the Community laid down basic standards for the first time in 1959 by means of Directives of 2 February 1959 laying down the basic standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation⁽¹⁾. The Directives have been revised several times, most recently by Council Directive 96/29/Euratom⁽²⁾ which repealed the earlier Directives.

⁽¹⁾ OJ L 11, 20.2.1959, p. 221.

⁽²⁾ Council Directive 96/29/Euratom of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation (OJ L 159, 29.6.1996, p. 1).

- (3) Directive 96/29/Euratom establishes the basic safety standards. The provisions of that Directive apply to normal and emergency situations and have been supplemented by more specific legislation.

- (4) Council Directive 97/43/Euratom⁽³⁾, Council Directive 89/618/Euratom⁽⁴⁾, Council Directive 90/641/Euratom⁽⁵⁾ and Council Directive 2003/122/Euratom⁽⁶⁾ cover different specific aspects complementary to Directive 96/29/Euratom.

- (5) As recognised by the Court of Justice of the European Union in its case-law, the tasks imposed on the Community by point (b) of Article 2 of the Euratom Treaty to lay down uniform safety standards to protect the health of workers and the general public does not preclude, unless explicitly stated in the standards, a Member State from providing for more stringent measures of protection. As this Directive provides for minimum rules, Member States should be free to adopt or maintain more stringent measures in the subject-matter covered by this Directive, without prejudice to the free movement of goods and services in the internal market as defined by the case-law of the Court of Justice.

- (6) The Group of Experts appointed by the Scientific and Technical Committee has advised that the basic safety

⁽³⁾ Council Directive 97/43/Euratom of 30 June 1997 on health protection of individuals against the dangers of ionising radiation in relation to medical exposure, and repealing Directive 84/466/Euratom (OJ L 180, 9.7.1997, p. 22).

⁽⁴⁾ Council Directive 89/618/Euratom of 27 November 1989 on informing the general public about health protection measures to be applied and steps to be taken in the event of a radiological emergency (OJ L 357, 7.12.1989, p. 31).

⁽⁵⁾ Council Directive 90/641/Euratom of 4 December 1990 on the operational protection of outside workers exposed to the risk of ionising radiation during their activities in controlled areas (OJ L 349, 13.12.1990, p. 21).

⁽⁶⁾ Council Directive 2003/122/Euratom of 22 December 2003 on the control of high-activity sealed radioactive sources and orphan sources (OJ L 346, 31.12.2003, p. 57).

standards, established according to Articles 30 and 31 of the Euratom Treaty, should take into account the new recommendations of the International Commission on Radiological Protection (ICRP), in particular those in ICRP Publication 103 ⁽¹⁾, and should be revised in the light of new scientific evidence and operational experience.

- (7) The provisions of this Directive should follow the situation based approach introduced by ICRP Publication 103 and distinguish between existing, planned and emergency exposure situations. Taking into account this new framework, this Directive should cover all exposure situations and all categories of exposure, namely occupational, public and medical exposures.
- (8) The definition of the term "undertaking" in this Directive, and its use in the context of the protection of the health of workers against ionising radiation, is without prejudice to the legal systems and the allocation of responsibilities to the employer introduced in national legislation transposing Council Directive 89/391/EEC ⁽²⁾.
- (9) Calculation of doses from measurable quantities should rely on scientifically established values and relationships. Recommendations for such dose coefficients have been published and updated by ICRP, taking scientific progress into account. A collection of dose coefficients based on its earlier recommendations in ICRP Publication 60 ⁽³⁾, is available as ICRP Publication 119 ⁽⁴⁾. However, in ICRP Publication 103, a new methodology was introduced by ICRP to calculate doses based on the latest knowledge on radiation risks, and this should, where possible, be taken into account in this Directive.
- (10) For external exposure, values and relationships have been published following the new methodology in ICRP Publication 116 ⁽⁵⁾. These data, as well as the well-established operational quantities, should be used for the purpose of this Directive.
- (11) For internal exposure, while ICRP has consolidated in ICRP Publication 119 all earlier publications (on the basis of ICRP Publication 60) on dose coefficients, updates of this publication will be provided and the coefficients that are tabulated in it will be superseded

by values based on the radiation and tissue weighting factors and phantoms laid down in ICRP Publication 103. The Commission will invite the group of experts referred to in Article 31 of the Euratom Treaty to continue to monitor scientific developments and the Commission will make recommendations on any updated values, relationships and coefficients, including those for exposure to radon, taking relevant opinions of the group of experts into account.

- (12) Article 30 of the Euratom Treaty provides that the "basic standards" are meant to include "maximum permissible doses compatible with adequate safety". This Directive should lay down uniform dose limits for this purpose.
- (13) The current annual effective dose limits for occupational and public exposure should be maintained. However, there should be no further need for averaging over five years, except in special circumstances specified in national legislation.
- (14) New scientific information on tissue reactions calls for the optimisation principle to be applied to equivalent doses as well, where appropriate, in order to keep doses as low as reasonably achievable. This Directive should also follow new ICRP guidance on the limit for equivalent dose for the lens of the eye in occupational exposure.
- (15) Industries processing naturally-occurring radioactive material extracted from the earth's crust subject workers and, if material is released into the environment, members of the public to increased exposure.
- (16) Protection against natural radiation sources, rather than being addressed separately in a specific title, should be fully integrated within the overall requirements. In particular, industries processing materials containing naturally-occurring radionuclides should be managed within the same regulatory framework as other practices.
- (17) It is appropriate for this Directive to establish reference levels for indoor radon concentrations and for indoor gamma radiation emitted from building materials, and to introduce requirements on the recycling of residues from industries processing naturally-occurring radioactive materials into building materials.
- (18) Regulation (EU) No. 305/2011 ⁽⁶⁾ lays down harmonised conditions for the marketing of construction products.

⁽¹⁾ The 2007 Recommendations of the International Commission on Radiological Protection.

⁽²⁾ Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work (OJ L 183, 29.6.1989, p. 1).

⁽³⁾ 1990 Recommendations of the International Commission on Radiological Protection.

⁽⁴⁾ Compendium of Dose Coefficients based on ICRP Publication 60, 2012.

⁽⁵⁾ Conversion Coefficients for Radiological Protection Quantities for External Radiation Exposures, 2010.

⁽⁶⁾ Regulation (EU) No. 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC (OJ L 88, 4.4.2011, p. 5).

- (19) Building materials emitting gamma radiation should be within the scope of this Directive but should also be regarded as construction products as defined in Regulation (EU) No 305/2011, in the sense that that Regulation applies to construction works emitting dangerous substances or dangerous radiation.
- (20) This Directive should be without prejudice to the provisions of Regulation (EU) No 305/2011 on the declaration of performance, the establishment of harmonised standards or the means and conditions for making available the declaration of performance or with regard to CE marking.
- (21) Regulation (EU) No 305/2011 requires information to be made available when products are placed on the market. This does not affect the right of Member States to specify in national legislation requirements for additional information they deem necessary to ensure radiation protection.
- (22) Recent epidemiological findings from residential studies demonstrate a statistically significant increase of lung cancer risk from prolonged exposure to indoor radon at levels of the order of 100 Bq m^{-3} . The new concept of exposure situations allows the provisions of Commission Recommendation 90/143/Euratom⁽¹⁾ to be incorporated into the binding requirements of the Basic Safety Standards while leaving enough flexibility for implementation.
- (23) National action plans are needed for addressing long-term risks from radon exposure. It is recognized that the combination of smoking and high radon exposure presents a substantially higher individual lung cancer risk than either factor individually and that smoking amplifies the risk from radon exposure at the population level. It is important that Member States address both of these health hazards.
- (24) Where, due to national prevailing circumstances, a Member State establishes a reference level for indoor radon concentrations in workplaces that is higher than 300 Bq m^{-3} , the Member State should submit the information to the Commission.
- (25) Where radon enters from the ground into indoor workplaces, this should be considered to be an existing exposure situation since the presence of radon is largely independent of the human activities carried out within the workplace. Such exposures may be significant in certain areas or specific types of workplaces to be identified by Member States, and appropriate radon and exposure reduction measures should be taken if the national reference level is exceeded. Where levels continue to remain above the national reference level, these human activities carried out within the workplace should not be regarded as practices. However, Member States should ensure that these workplaces are notified and that, in cases where the exposure of workers is liable to exceed an effective dose of 6 mSv per year or a corresponding time-integrated radon exposure value, they are managed as a planned exposure situation and that dose limits apply, and determine which operational protection requirements need be applied.
- (26) The exposure of air crew to cosmic radiation should be managed as a planned exposure situation. The operation of spacecraft should come under the scope of this Directive and, if dose limits are exceeded, be managed as a specially authorised exposure.
- (27) The contamination of the environment may pose a threat to human health. The Community's secondary legislation so far has regarded such contamination only as a pathway of exposure to members of the public directly affected by radioactive effluent discharged to the environment. While the state of the environment can impact long-term human health, this calls for a policy protecting the environment against the harmful effects of ionising radiation. For the purpose of long-term human health protection, environmental criteria based on internationally recognised scientific data (such as published by EC, ICRP, United Nations Scientific Committee on the Effects of Atomic Radiation, International Atomic Energy Agency (IAEA)) should be taken into account.
- (28) In the medical area, important technological and scientific developments have led to a notable increase in the exposure of patients. In this respect, this Directive should emphasise the need for justification of medical exposure, including the exposure of asymptomatic individuals and should strengthen the requirements concerning information to be provided to patients, the recording and reporting of doses from medical procedures, the use of diagnostic reference levels and the availability of dose-indicating devices. It should be noted that according to the World Health Organisation the concept of health is understood to cover the physical, mental and social well-being of an individual and not merely the absence of disease or infirmity.
- (29) A high level of competence and a clear definition of responsibilities and tasks among all professionals involved in medical exposure is fundamental to ensure adequate protection of patients undergoing medical radiodiagnostic and radiotherapeutic procedures. This applies to medical doctors, dentists and other health professionals entitled to take clinical responsibility for

⁽¹⁾ Commission Recommendation 90/143/Euratom of 21 February 1990 on the protection of members of the public against indoor exposure to radon (OJ L 80, 27.3.1990, p. 26).

individual medical exposures, to medical physicists and to other professionals carrying out practical aspects of medical radiological procedures, such as radiographers and technicians in radiodiagnostic medicine, nuclear medicine and radiotherapy.

- (30) Accidental and unintended medical exposures are a source of continuing concern. Whereas for medical devices post-market surveillance is required under Council Directive 93/42/EEC ⁽¹⁾, it is the role of the competent authority in radiation protection to address the prevention of accidental and unintended medical exposure and the follow-up in case of their occurrence. In this respect, the role of quality assurance programmes, including a study of risks in radiotherapy, to avoid such incidents should be emphasised, and recording, reporting, analysis and corrective action should be required in such cases.
- (31) In veterinary practice the use of ionising radiation for imaging is growing, often with second-hand equipment from the medical sector. Especially in the case of larger animals, or in the administration of radiopharmaceuticals to animals, there is a substantial risk of high occupational exposures and of exposure of accompanying persons. This calls for the provision of adequate information and the education of veterinarians and their staff.
- (32) The so-called "medico-legal" exposures introduced in Directive 97/43/Euratom have now been clearly identified as the deliberate exposure of individuals for other than medical purposes, or "non-medical imaging exposures". Such practices need to be placed under appropriate regulatory control and should be justified in a similar way as for medical exposures. However, a different approach is needed on the one hand for procedures using medical radiological equipment and on the other hand for procedures not using such equipment. In general, the annual dose limits and corresponding constraints for public exposure should apply.
- (33) Member States should be required to submit certain practices involving a hazard from ionising radiation to a system of regulatory control or to prohibit certain practices.
- (34) The application of radiation protection principles in relation to consumer products requires the regulatory control of practices to start at the stage of design and manufacture of products or at the time of import of such products. Therefore, the manufacture or import of consumer products should be regulated and specific procedures should be introduced, so as to allow the timely justification of the intended use of the consumer products, as well as to allow checking that this use can be exempted from regulatory control. While such
- assessment should continue to be carried out in the Member State in which those practices are conducted, Member States should inform each other, so as to allow them to request relevant information from the undertakings in question and to make their own assessment.
- (35) The deliberate addition of radioactive substances to certain categories of consumer products should remain prohibited, but it needs to be made clear that this also applies to the activation of such products by irradiation, without prejudice to existing legislation such as Directive 1999/2/EC of the European Parliament and of the Council ⁽²⁾.
- (36) Member States should benefit from the application of a graded approach to regulatory control, which should be commensurate with the magnitude and likelihood of exposures resulting from the practices, and commensurate with the impact that regulatory control may have in reducing such exposures or improving the safety of installations.
- (37) There is a benefit in having the same activity concentration values both for the exemption of practices from regulatory control and for the clearance of materials from authorised practices. After a comprehensive review, it has been concluded that the values recommended in IAEA publication Application of the Concepts of Exclusion, Exemption and Clearance ⁽³⁾ can be used both as default exemption values, replacing the activity concentration values laid down in Annex I to Directive 96/29/Euratom, and as general clearance levels, replacing the values recommended by the Commission in Radiation Protection No 122 ⁽⁴⁾.
- (38) Member States should be able to grant specific exemption from authorisation for certain practices involving activities above the exemption values.
- (39) Specific clearance levels, as well as corresponding Community guidance ⁽⁵⁾, remain important tools for the management of large volumes of materials arising from the dismantling of authorised facilities.

⁽¹⁾ Council Directive 93/42/EEC of 14 June 1993 concerning medical devices (OJ L 169, 12.7.1993, p. 1).

⁽²⁾ Directive 1999/2/EC of the European Parliament and of the Council of 22 February 1999 on the approximation of the laws of the Member States concerning foods and food ingredients treated with ionising radiation (OJ L 66, 13.3.1999, p. 16).

⁽³⁾ IAEA 2004 Safety Standards Series RS-G-1.7, Application of the Concepts of Exclusion, Exemption and Clearance.

⁽⁴⁾ Radiation Protection 122: Practical use of the Concepts of the Clearance and Exemption

⁽⁵⁾ Radiation Protection 89: Recommended radiological protection criteria for the recycling of metals from dismantling of nuclear installations, Radiation Protection 113: Recommended Radiological Protection Criteria for the Clearance of Buildings and Building Rubble from the Dismantling of Nuclear Installations, Radiation Protection 122: Practical Use of the Concepts of the Clearance and Exemption.

- (40) Member States should ensure that outside workers receive the same protection as exposed workers employed by an undertaking performing practices with radiation sources. The specific arrangements for outside workers in Directive 90/641/Euratom should be extended to also cover work in supervised areas.
- (41) With regard to the management of emergency exposure situations, the current approach based on intervention levels should be replaced by a more comprehensive system comprising an assessment of potential emergency exposure situations, an overall emergency management system, emergency response plans, and pre-planned strategies for the management of each postulated event.
- (42) The introduction of reference levels in emergency and existing exposure situations allows for the protection of the individual as well as consideration of other societal criteria in the same way as dose limits and dose constraints for planned exposure situations.
- (43) The efficient management of an emergency with cross-border consequences calls for enhanced cooperation between Member States in emergency planning and response.
- (44) While urgent information exchange between Member States and the Commission in the event of an emergency is established through Council Decision 87/600/Euratom⁽¹⁾, there is a need to put in place arrangements for information exchange beyond the scope of this Decision to allow cooperation with all other Member States and with third countries which may be involved or are likely to be affected.
- (45) The IAEA together with the World Health Organisation, the Food and Agricultural Organisation, the International Labour Organisation, the Nuclear Energy Agency of the Organisation for Economic Cooperation and Development, and the Pan-American Health Organisation have revised the International Basic Safety Standards in the light of the ICRP's new Publication 103, and the Commission has informed the IAEA of its decision of 6 August 2012 to co-sponsor that document on behalf of the European Atomic Energy Community.
- (46) The roles and responsibilities of the national services and experts involved in ensuring that the technical and practical aspects of radiation protection are managed with a high level of competence need to be clarified. This Directive should clearly distinguish between the different roles and responsibilities of the services and experts without precluding that national frameworks allow the grouping of responsibilities or allow the assignment of responsibilities for specific technical and practical tasks in radiation protection to specified experts.
- (47) Commission Recommendation 2004/2/Euratom⁽²⁾ introduced standardised information for the reporting of data on discharges from nuclear power plants and reprocessing facilities, for transmission of the data to the Commission under Article 36 of the Euratom Treaty.
- (48) Member States should have in place precise requirements for the issuing of discharge authorisations and the monitoring of discharges. The reporting of data to the competent authority on discharges from nuclear power plants and reprocessing facilities should be based on standardised information.
- (49) Under Article 35 of the Euratom Treaty Member States shall ensure that an appropriate programme to monitor the level of radioactivity in the environment is in place. Under Article 36 of the Euratom Treaty Member States shall report the results of such monitoring to the Commission. Reporting requirements under Article 36 of the Euratom Treaty have been explained in Commission Recommendation 2000/473/Euratom⁽³⁾.
- (50) Council Regulation (EU) No 333/2011⁽⁴⁾ establishes criteria determining when certain types of scrap metal cease to be waste under Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste⁽⁵⁾. Measures need to be taken to prevent the accidental melting of orphan sources as well as to ensure compliance of metals released from nuclear installations, for instance during their dismantling, with clearance criteria.
- (51) Changes need to be made to Directive 2003/122/Euratom to broaden some of the requirements to include any radioactive source. Unresolved problems with orphan sources remain, and there have been significant cases of contaminated metal being imported from third countries. A requirement should therefore be introduced for the notification of incidents with orphan sources or the contamination of metal. It is also important to harmonise the levels above which a source is regarded as a high-activity sealed source with those established by the IAEA.

⁽¹⁾ Council Decision 87/600/Euratom of 14 December 1987 on Community arrangements for the early exchange of information in the event of a radiological emergency (OJ L 371, 30.12.1987, p. 76).

⁽²⁾ Commission Recommendation 2004/2/Euratom of 18 December 2003 on standardised information on radioactive airborne and liquid discharges into the environment from nuclear power reactors and reprocessing plants in normal operation (OJ L 2, 6.1.2004, p. 36).

⁽³⁾ OJ L 191, 27.7.2000, p. 37.

⁽⁴⁾ Council Regulation (EU) No 333/2011 of 31 March 2011 establishing the criteria determining when certain types of scrap metal cease to be waste under Directive 2008/98/EC of the European Parliament and of the Council (OJ L 94, 8.4.2011, p. 2).

⁽⁵⁾ OJ L 312, 22.11.2008, p. 3.

- (52) Pursuant to Article 106a(3) of the Euratom Treaty, the legislation adopted on the basis of the provisions of the Treaty on European Union and of the Treaty on the Functioning of the European Union should not derogate from the provisions of this Directive, and consequently the justification and optimisation principles should apply notably for medical devices and construction products covered by CE marking.
- (53) In accordance with the Joint Political declaration of Member States and the Commission on explanatory documents of 28 September 2011, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the transmission of such documents is justified.
- (54) Directive 96/29/Euratom and the complementary Directives 89/618/Euratom, 90/641/Euratom, 97/43/Euratom and 2003/122/Euratom should be repealed,

HAS ADOPTED THIS DIRECTIVE:

CHAPTER I

SUBJECT MATTER AND SCOPE

Article 1

Subject matter

This Directive establishes uniform basic safety standards for the protection of the health of individuals subject to occupational, medical and public exposures against the dangers arising from ionising radiation.

Article 2

Scope

1. This Directive applies to any planned, existing or emergency exposure situation which involves a risk from exposure to ionising radiation which cannot be disregarded from a radiation protection point of view or with regard to the environment in view of long-term human health protection.

2. This Directive applies in particular to:

- (a) the manufacture, production, processing, handling, disposal, use, storage, holding, transport, import to, and export from the Community of radioactive material;
- (b) the manufacture and the operation of electrical equipment emitting ionising radiation and containing components operating at a potential difference of more than 5 kilovolt (kV);

- (c) human activities which involve the presence of natural radiation sources that lead to a significant increase in the exposure of workers or members of the public, in particular:
- (i) the operation of aircraft and spacecraft, in relation to the exposure of crews;
- (ii) the processing of materials with naturally-occurring radionuclides;
- (d) the exposure of workers or members of the public to indoor radon, the external exposure from building materials and cases of lasting exposure resulting from the after-effects of an emergency or a past human activity.
- (e) the preparedness for, the planning of response to and the management of emergency exposure situations that are deemed to warrant measures to protect the health of members of the public or workers.

Article 3

Exclusion from the scope

This Directive shall not apply to:

- (a) exposure to the natural level of radiation, such as radionuclides contained in the human body and cosmic radiation prevailing at ground level;
- (b) exposure of members of the public or workers other than air or spacecrew to cosmic radiation in flight or in space;
- (c) aboveground exposure to radionuclides present in the undisturbed earth's crust.

CHAPTER II

DEFINITIONS

Article 4

Definitions

For the purpose of this Directive, the following definitions shall apply:

- (1) "Absorbed dose" (D) is the energy absorbed per unit mass

$$D = \frac{d\bar{e}}{dm}$$

where

$d\bar{e}$ is the mean energy imparted by ionising radiation to the matter in a volume element,

dm is the mass of the matter in this volume element.

In this Directive, absorbed dose denotes the dose averaged over a tissue or an organ. The unit for absorbed dose is the gray (Gy) where one gray is equal to one joule per kilogram: $1 \text{ Gy} = 1 \text{ J kg}^{-1}$;

- (2) "accelerator" means equipment or installation in which particles are accelerated, emitting ionising radiation with energy higher than 1 mega-electron volt (MeV);
- (3) "accidental exposure" means an exposure of individuals, other than emergency workers, as a result of an accident;
- (4) "activation" means a process through which a stable nuclide is transformed into a radionuclide by irradiating with particles or high-energy photons the material in which it is contained;
- (5) "activity" (A) is the activity of an amount of a radionuclide in a particular energy state at a given time. It is the quotient of dN by dt , where dN is the expectation value of the number of nuclear transitions from that energy state in the time interval dt :
- $$A = \frac{dN}{dt}$$
- The unit of activity is the becquerel (Bq);
- (6) "apprentice" means a person receiving training or instruction within an undertaking with a view to exercising a specific skill;
- (7) "authorisation" means the registration or licensing of a practice;
- (8) "becquerel" (Bq) is the special name of the unit of activity. One becquerel is equivalent to one nuclear transition per second: $1 \text{ Bq} = 1 \text{ s}^{-1}$;
- (9) "building material" means any construction product for incorporation in a permanent manner in a building or parts thereof and the performance of which has an effect on the performance of the building with regard to exposure of its occupants to ionising radiation;
- (10) "carers and comforters" means individuals knowingly and willingly incurring an exposure to ionising radiation by helping, other than as part of their occupation, in the support and comfort of individuals undergoing or having undergone medical exposure;
- (11) "clearance levels" means values established by the competent authority or in national legislation, and expressed in terms of activity concentrations, at or

below which materials arising from any practice subject to notification or authorisation may be released from the requirements of this Directive;

- (12) "clinical audit" means a systematic examination or review of medical radiological procedures which seeks to improve the quality and outcome of patient care through structured review, whereby medical radiological practices, procedures and results are examined against agreed standards for good medical radiological procedures, with modification of practices, where appropriate, and the application of new standards if necessary;
- (13) "clinical responsibility" means responsibility of a practitioner for individual medical exposures, in particular, justification; optimisation; clinical evaluation of the outcome; cooperation with other specialists and staff, as appropriate, regarding practical aspects of medical radiological procedures; obtaining information, if appropriate, on previous examinations; providing existing medical radiological information and/or records to other practitioners and/or the referrer, as required; and giving information on the risk of ionising radiation to patients and other individuals involved, as appropriate;
- (14) "committed effective dose" ($E(\tau)$) is the sum of the committed organ or tissue equivalent doses $H_T(\tau)$ resulting from an intake, each multiplied by the appropriate tissue weighting factor w_T . It is defined by:

$$E(\tau) = \sum_T w_T H_T(\tau)$$

In specifying $E(\tau)$, τ is given in the number of years over which the integration is made. For the purpose of complying with dose limits specified in this Directive, is a period of 50 years following intake for adults and up to the age of 70 for infants and children. The unit for committed effective dose is the sievert (Sv);

- (15) "committed equivalent dose" ($H_T(\tau)$) is the integral over time (t) of the equivalent dose rate in tissue or organ T that will be received by an individual as a result of an intake.

It is given by:

$$H_T(\tau) = \int_{t_0^-}^{t_0+\tau} \dot{H}_T(t) dt$$

for an intake at time t_0 where-

$\dot{H}_T(t)$ is the relevant equivalent dose rate in organ or tissue T at time t ,

τ is the time over which the integration is performed.

In specifying $H_T(\tau)$, is given in number of years over which the integration is made. For the purpose of complying with dose limits specified in this Directive, τ is a period of 50 years for adults and up to the age of 70 for infants and children. The unit for committed equivalent dose is the sievert (Sv);

- (16) "competent authority" means an authority or system of authorities designated by Member States as having legal authority for the purposes of this Directive;
- (17) "consumer product" means a device or manufactured item into which one or more radionuclides have deliberately been incorporated or produced by activation, or which generates ionising radiation, and which can be sold or made available to members of the public without special surveillance or regulatory control after sale;
- (18) "contamination" means the unintended or undesirable presence of radioactive substances on surfaces or within solids, liquids or gases or on the human body;
- (19) "controlled area" means an area subject to special rules for the purpose of protection against ionising radiation or preventing the spread of radioactive contamination and to which access is controlled;
- (20) "diagnostic reference levels" means dose levels in medical radiodiagnostic or interventional radiology practices, or, in the case of radio-pharmaceuticals, levels of activity, for typical examinations for groups of standard-sized patients or standard phantoms for broadly defined types of equipment;
- (21) "disused source" means a sealed source which is no longer used or intended to be used for the practice for which authorisation was granted but continues to require safe management;
- (22) "dose constraint" means a constraint set as a prospective upper bound of individual doses, used to define the range of options considered in the process of optimisation for a given radiation source in a planned exposure situation;
- (23) "dose limit" means the value of the effective dose (where applicable, committed effective dose) or the equivalent dose in a specified period which shall not be exceeded for an individual;
- (24) "dosimetry service" means a body or an individual competent to calibrate, read or interpret individual monitoring devices, or to measure radioactivity in the human

body or in biological samples, or to assess doses, whose capacity to act in this respect is recognised by the competent authority;

- (25) "effective dose" (E) is the sum of the weighted equivalent doses in all the tissues and organs of the body from internal and external exposure. It is defined by the expression:

$$E = \sum_T w_T H_T = \sum_T w_T \sum_R w_R D_{T,R}$$

where

$D_{T,R}$ is the absorbed dose averaged over tissue or organ T, due to radiation R,

w_R is the radiation weighting factor and

w_T is the tissue weighting factor for tissue or organ T.

The values for w_T and w_R are specified in Annex II. The unit for effective dose is the sievert (Sv);

- (26) "emergency" means a non-routine situation or event involving a radiation source that necessitates prompt action to mitigate serious adverse consequences for human health and safety, quality of life, property or the environment, or a hazard that could give rise to such serious adverse consequences;
- (27) "emergency exposure situation" means a situation of exposure due to an emergency;
- (28) "emergency management system" means a legal or administrative framework establishing responsibilities for emergency preparedness and response, and arrangements for decision making in the event of an emergency exposure situation;
- (29) "emergency occupational exposure" means exposure received in an emergency exposure situation by an emergency worker;
- (30) "emergency response plan" means arrangements to plan for adequate response in the event of an emergency exposure situation on the basis of postulated events and related scenarios;
- (31) "emergency worker" means any person having a defined role in an emergency and who might be exposed to radiation while taking action in response to the emergency;

- (32) "environmental monitoring" means the measurement of external dose rates due to radioactive substances in the environment or of concentrations of radionuclides in environmental media;
- (33) "equivalent dose" (H_T) is the absorbed dose, in tissue or organ T weighted for the type and quality of radiation R. It is given by:
- $$H_{T,R} = w_R D_{T,R},$$
- where
- $D_{T,R}$ is the absorbed dose averaged over tissue or organ T, due to radiation R,
- w_R is the radiation weighting factor.
- When the radiation field is composed of types and energies with different values of w_R , the total equivalent dose, H_T , is given by:
- $$H_T = \sum_R w_R D_{T,R}$$
- The values for w_R are specified in Annex II, Part A. The unit for equivalent dose is the sievert (Sv);
- (34) "exemption level" means a value established by a competent authority or in legislation and expressed in terms of activity concentration or total activity at or below which a radiation source is not subject to notification or authorisation;
- (35) "existing exposure situation" means an exposure situation that already exists when a decision on its control has to be taken and which does not call or no longer calls for urgent measures to be taken;
- (36) "exposed worker" means a person, either self-employed or working under an employer, who is subject to exposure at work carried out within a practice regulated by this Directive and who is liable to receive doses exceeding one or other of the dose limits for public exposure;
- (37) "exposure" means the act of exposing or condition of being exposed to ionising radiation emitted outside the body (external exposure) or within the body (internal exposure);
- (38) "extremities" means the hands, forearms, feet and ankles;
- (39) "health detriment" means reduction in length and quality of life occurring in a population following exposure, including those arising from tissue reactions, cancer and severe genetic disorder;
- (40) "health screening" means a procedure using medical radiological installations for early diagnosis in population groups at risk;
- (41) "high-activity sealed source" means a sealed source for which the activity of the contained radionuclide is equal to or exceeds the relevant activity value laid down in Annex III;
- (42) "individual detriment" means clinically observable deleterious effects in individuals or their descendants, the appearance of which is either immediate or delayed and, in the latter case, implies a probability rather than a certainty of appearance;
- (43) "inspection" means an investigation by or on behalf of any competent authority to verify compliance with national legal requirements;
- (44) "intake" means the total activity of a radionuclide entering the body from the external environment;
- (45) "interventional radiology" means the use of X-ray imaging techniques to facilitate the introduction and guidance of devices in the body for diagnostic or treatment purposes;
- (46) "ionising radiation" means energy transferred in the form of particles or electromagnetic waves of a wavelength of 100 nanometres or less (a frequency of 3×10^{15} hertz or more) capable of producing ions directly or indirectly;
- (47) "licence" means permission granted in a document by the competent authority to carry out a practice in accordance with specific conditions laid down in that document;
- (48) "medical exposure" means exposure incurred by patients or asymptomatic individuals as part of their own medical or dental diagnosis or treatment, and intended to benefit their health, as well as exposure incurred by carers and comforters and by volunteers in medical or biomedical research;
- (49) "medical physics expert" means an individual or, if provided for in national legislation, a group of individuals, having the knowledge, training and experience to act or give advice on matters relating to radiation physics applied to medical exposure, whose competence in this respect is recognised by the competent authority;
- (50) "medical radiological" means pertaining to radiodiagnostic and radiotherapeutic procedures, and interventional radiology or other medical uses of ionising radiation for planning, guiding and verification purposes;

- (51) "medical radiological installation" means a facility where medical radiological procedures are performed;
- (52) "medical radiological procedure" means any procedure giving rise to medical exposure;
- (53) "members of the public" means individuals who may be subject to public exposure;
- (54) "natural radiation source" means a source of ionising radiation of natural, terrestrial or cosmic origin;
- (55) "non-medical imaging exposure" means any deliberate exposure of humans for imaging purposes where the primary intention of the exposure is not to bring a health benefit to the individual being exposed;
- (56) "normal exposure" means exposure expected to occur under the normal operating conditions of a facility or activity (including maintenance, inspection, decommissioning), including minor incidents that can be kept under control, i.e. during normal operation and anticipated operational occurrences;
- (57) "notification" means submission of information to the competent authority to notify the intention to carry out a practice within the scope of this Directive;
- (58) "occupational exposure" means exposure of workers, apprentices and students, incurred in the course of their work;
- (59) "occupational health service" means a health professional or body competent to perform medical surveillance of exposed workers and whose capacity to act in that respect is recognised by the competent authority;
- (60) "orphan source" means a radioactive source which is neither exempted nor under regulatory control, e.g. because it has never been under regulatory control or because it has been abandoned, lost, misplaced, stolen or otherwise transferred without proper authorisation;
- (61) "outside worker" means any exposed worker who is not employed by the undertaking responsible for the supervised and controlled areas, but performs activities in those areas, including, apprentices and students;
- (62) "planned exposure situation" means an exposure situation that arises from the planned operation of a radiation source or from a human activity which alters exposure pathways, so as to cause the exposure or potential exposure of people or the environment. Planned exposure situations may include both normal exposures and potential exposures.
- (63) "potential exposure" means exposure that is not expected with certainty but may result from an event or sequence of events of a probabilistic nature, including equipment failures and operating errors;
- (64) "practical aspects of medical radiological procedures" means the physical conduct of a medical exposure and any supporting aspects, including handling and use of medical radiological equipment, the assessment of technical and physical parameters (including radiation doses), calibration and maintenance of equipment, preparation and administration of radio-pharmaceuticals, and image processing;
- (65) "practice" means a human activity that can increase the exposure of individuals to radiation from a radiation source and is managed as a planned exposure situation;
- (66) "practitioner" means a medical doctor, dentist or other health professional who is entitled to take clinical responsibility for an individual medical exposure in accordance with national requirements;
- (67) "processing" means chemical or physical operations on radioactive material including the mining, conversion, enrichment of fissile or fertile nuclear material and the reprocessing of spent fuel;
- (68) "protective measures" means measures, other than remedial measures, for the purpose of avoiding or reducing doses that might otherwise be received in an emergency exposure situation or an existing exposure situation;
- (69) "public exposure" means exposure of individuals, excluding any occupational or medical exposure;
- (70) "quality assurance" means all those planned and systematic actions necessary to provide adequate assurance that a structure, system, component or procedure will perform satisfactorily in compliance with agreed standards. Quality control is a part of quality assurance;
- (71) "quality control" means the set of operations (programming, coordinating, implementing) intended to maintain or to improve quality. It includes monitoring, evaluation and maintenance at required levels of all characteristics of performance of equipment that can be defined, measured, and controlled;

- (72) "radiation generator" means a device capable of generating ionising radiation, such as X-rays, neutrons, electrons or other charged particles;
- (73) "radiation protection expert" means an individual or, if provided for in the national legislation, a group of individuals having the knowledge, training and experience needed to give radiation protection advice in order to ensure the effective protection of individuals, and whose competence in this respect is recognised by the competent authority;
- (74) "radiation protection officer" means an individual who is technically competent in radiation protection matters relevant for a given type of practice to supervise or perform the implementation of the radiation protection arrangements;
- (75) "radiation source" means an entity that may cause exposure, such as by emitting ionising radiation or by releasing radioactive material;
- (76) "radioactive material" means material incorporating radioactive substances;
- (77) "radioactive source" means a radiation source incorporating radioactive material for the purpose of utilising its radioactivity;
- (78) "radioactive substance" means any substance that contains one or more radionuclides the activity or activity concentration of which cannot be disregarded from a radiation protection point of view;
- (79) "radioactive waste" means radioactive material in gaseous, liquid or solid form for which no further use is foreseen or considered by the Member State or by a legal or natural person whose decision is accepted by the Member State, and which is regulated as radioactive waste by a competent regulatory authority under the legislative and regulatory framework of the Member State;
- (80) "radiodiagnostic" means pertaining to in-vivo diagnostic nuclear medicine, medical diagnostic radiology using ionising radiation, and dental radiology;
- (81) "radiotherapeutic" means pertaining to radiotherapy, including nuclear medicine for therapeutic purposes;
- (82) "radon" means the radionuclide Rn-222 and its progeny, as appropriate;
- (83) "exposure to radon" means exposure to radon progeny;
- (84) "reference level" means in an emergency exposure situation or in an existing exposure situation, the level of effective dose or equivalent dose or activity concentration above which it is judged inappropriate to allow exposures to occur as a result of that exposure situation, even though it is not a limit that may not be exceeded;
- (85) "referrer" means a medical doctor, dentist or other health professional who is entitled to refer individuals for medical radiological procedures to a practitioner, in accordance with national requirements;
- (86) "registration" means permission granted in a document by the competent authority, or granted by national legislation, through a simplified procedure, to carry out a practice in accordance with conditions laid down in national legislation or specified by a competent authority for this type or class of practice;
- (87) "regulatory control" means any form of control or regulation applied to human activities for the enforcement of radiation protection requirements;
- (88) "remedial measures" means the removal of a radiation source or the reduction of its magnitude (in terms of activity or amount) or the interruption of exposure pathways or the reduction of their impact for the purposes of avoiding or reducing doses that might otherwise be received in an existing exposure situation;
- (89) "representative person" means an individual receiving a dose that is representative of the more highly exposed individuals in the population, excluding those individuals having extreme or rare habits;
- (90) "sealed source" means a radioactive source in which the radioactive material is permanently sealed in a capsule or incorporated in a solid form with the objective of preventing, under normal conditions of use, any dispersion of radioactive substances;
- (91) "sievert" (Sv) is the special name of the unit of equivalent or effective dose. One sievert is equivalent to one joule per kilogram: $1 \text{ Sv} = 1 \text{ J kg}^{-1}$;
- (92) "storage" means the holding of radioactive material, including spent fuel, a radioactive source or radioactive waste, in a facility with the intention of retrieval;
- (93) "supervised area" means an area subject to supervision for the purpose of protection against ionising radiation;

- (94) "source container" means an assembly of components intended to guarantee the containment of a sealed source, where it is not an integral part of the source but is meant for shielding the source during its transport and handling;
- (95) "spacecraft" means a manned vehicle designed to operate at an altitude of more than 100 km above sea level;
- (96) "standard values and relationships" means values and relationships recommended in chapters 4 and 5 of ICRP Publication 116 for the estimation of doses from external exposure and chapter 1 of ICRP Publication 119 for the estimation of doses from internal exposure, including updates approved by Member States. Member State may approve the use of specific methods in specified cases relating to the physico-chemical properties of the radionuclide or other features of the exposure situation or of the exposed individual;
- (97) "thoron" means the radionuclide Rn-220 and its progeny, as appropriate;
- (98) "undertaking" means a natural or legal person who has legal responsibility under national law for carrying out a practice, or for a radiation source (including cases where the owner or holder of a radiation source does not conduct related human activities);
- (99) "unintended exposure" means medical exposure that is significantly different from the medical exposure intended for a given purpose.

CHAPTER III

SYSTEM OF RADIATION PROTECTION

Article 5

General principles of radiation protection

Member States shall establish legal requirements and an appropriate regime of regulatory control which, for all exposure situations, reflect a system of radiation protection based on the principles of justification, optimisation and dose limitation:

- (a) Justification: Decisions introducing a practice shall be justified in the sense that such decisions shall be taken with the intent to ensure that the individual or societal benefit resulting from the practice outweighs the health detriment that it may cause. Decisions introducing or altering an exposure pathway for existing and emergency exposure situations shall be justified in the sense that they should do more good than harm.
- (b) Optimisation: Radiation protection of individuals subject to public or occupational exposure shall be optimised with the

aim of keeping the magnitude of individual doses, the likelihood of exposure and the number of individuals exposed as low as reasonably achievable taking into account the current state of technical knowledge and economic and societal factors. The optimisation of the protection of individuals subject to medical exposure shall apply to the magnitude of individual doses and be consistent with the medical purpose of the exposure, as described in Article 56. This principle shall be applied not only in terms of effective dose but also, where appropriate, in terms of equivalent doses, as a precautionary measure to allow for uncertainties as to health detriment below the threshold for tissue reactions.

- (c) Dose limitation: In planned exposure situations, the sum of doses to an individual shall not exceed the dose limits laid down for occupational exposure or public exposure. Dose limits shall not apply to medical exposures.

SECTION 1

Tools for optimisation

Article 6

Dose constraints for occupational, public, and medical exposure

1. Member States shall ensure that, where appropriate, dose constraints are established for the purpose of prospective optimisation of protection:
 - (a) for occupational exposure, the dose constraint shall be established as an operational tool for optimisation by the undertaking under the general supervision of the competent authority. In the case of outside workers the dose constraint shall be established in cooperation between the employer and the undertaking.
 - (b) for public exposure, the dose constraint shall be set for the individual dose that members of the public receive from the planned operation of a specified radiation source. The competent authority shall ensure that the constraints are consistent with the dose limit for the sum of doses to the same individual from all authorised practices.
 - (c) for medical exposure, dose constraints shall apply only with regard to the protection of carers and comforters and volunteers participating in medical or biomedical research.

2. Dose constraints shall be established in terms of individual effective or equivalent doses over a defined appropriate time period.

Article 7

Reference levels

1. Member States shall ensure that reference levels are established for emergency and existing exposure situations. Optimisation of protection shall give priority to exposures above the reference level and shall continue to be implemented below the reference level.

2. The values chosen for reference levels shall depend upon the type of exposure situation. The choices of reference levels shall take into account both radiological protection requirements and societal criteria. For public exposure the establishment of reference levels shall take into account the range of reference levels set out in Annex I.

3. For existing exposure situations involving exposure to radon, the reference levels shall be set in terms of radon activity concentration in air as specified in Article 74 for members of the public and Article 54 for workers.

SECTION 2

Dose limitation

Article 8

Age limit for exposed workers

Member States shall ensure that subject to Article 11(2), persons under 18 years of age may not be assigned to any work which would result in their being exposed workers.

Article 9

Dose limits for occupational exposure

1. Member States shall ensure that dose limits for occupational exposure apply to the sum of annual occupational exposures of a worker from all authorised practices, occupational exposure to radon in workplaces requiring notification in accordance with Article 54(3), and other occupational exposure from existing exposure situations in accordance with Article 100(3). For emergency occupational exposure Article 53 shall apply.

2. The limit on the effective dose for occupational exposure shall be 20 mSv in any single year. However, in special circumstances or for certain exposure situations specified in national legislation, a higher effective dose of up to 50 mSv may be authorised by the competent authority in a single year, provided that the average annual dose over any five consecutive years, including the years for which the limit has been exceeded, does not exceed 20 mSv.

3. In addition to the limits on effective dose laid down in paragraph 2, the following limits on equivalent dose shall apply:

- (a) the limit on the equivalent dose for the lens of the eye shall be 20 mSv in a single year or 100 mSv in any five consecutive years subject to a maximum dose of 50 mSv in a single year, as specified in national legislation.
- (b) the limit on the equivalent dose for the skin shall be 500 mSv in a year, this limit shall apply to the dose averaged over any area of 1 cm², regardless of the area exposed;

- (c) the limit on the equivalent dose for the extremities shall be 500 mSv in a year.

Article 10

Protection of pregnant and breastfeeding workers

1. Member States shall ensure that the protection of the unborn child is comparable with that provided for members of the public. As soon as a pregnant worker informs the undertaking or, in the case of an outside worker, the employer, of the pregnancy, in accordance with national legislation the undertaking, and the employer, shall ensure that the employment conditions for the pregnant worker are such that the equivalent dose to the unborn child is as low as reasonably achievable and unlikely to exceed 1 mSv during at least the remainder of the pregnancy.

2. As soon as workers inform the undertaking, or in case of outside workers, the employer, that they are breastfeeding an infant, they shall not be employed in work involving a significant risk of intake of radionuclides or of bodily contamination.

Article 11

Dose limits for apprentices and students

1. Member States shall ensure that the dose limits for apprentices aged 18 years or over and students aged 18 years or over who, in the course of their studies, are obliged to work with radiation sources, shall be the same as the dose limits for occupational exposure laid down in Article 9.

2. Member States shall ensure that the limit on the effective dose for apprentices aged between 16 and 18 years and for students aged between 16 and 18 years who, in the course of their studies, are obliged to work with radiation sources, shall be 6 mSv in a year.

3. In addition to the limits on effective dose laid down in paragraph 2, the following limits on equivalent dose shall apply:

- (a) the limit on the equivalent dose for the lens of the eye shall be 15 mSv in a year;
- (b) the limit on the equivalent dose for the skin shall be 150 mSv in a year, averaged over any area of 1 cm², regardless of the area exposed;
- (c) the limit on the equivalent dose for the extremities shall be 150 mSv in a year.

4. Member States shall ensure that the dose limits for apprentices and students who are not subject to the provisions of paragraphs 1, 2 and 3 shall be the same as the dose limits for members of the public as specified in Article 12.

*Article 12***Dose limits for public exposure**

1. Member States shall ensure that the dose limits for public exposure shall apply to the sum of annual exposures of a member of the public resulting from all authorised practices.
2. Member States shall set the limit on the effective dose for public exposure at 1 mSv in a year.
3. In addition to the dose limit referred to in paragraph 2, the following limits on the equivalent dose shall apply:
 - (a) the limit on the equivalent dose for the lens of the eye shall be 15 mSv in a year;
 - (b) the limit on the equivalent dose for the skin shall be 50 mSv in a year, averaged over any 1 cm² area of skin, regardless of the area exposed.

*Article 13***Estimation of the effective and equivalent dose**

For the estimation of effective and equivalent doses, the appropriate standard values and relationships shall be used. For external radiation, the operational quantities defined in section 2.3 of ICRP Publication 116 shall be used.

CHAPTER IV

REQUIREMENTS FOR RADIATION PROTECTION EDUCATION, TRAINING AND INFORMATION*Article 14***General responsibilities for the education, training and provision of information**

1. Member States shall establish an adequate legislative and administrative framework ensuring the provision of appropriate radiation protection education, training and information to all individuals whose tasks require specific competences in radiation protection. The provision of training and information shall be repeated at appropriate intervals and documented.
2. Member States shall ensure that arrangements are made for the establishment of education, training and retraining to allow the recognition of radiation protection experts and medical physics experts, as well as occupational health services and dosimetry services, in relation to the type of practice.
3. Member States may make arrangements for the establishment of education, training and retraining to allow the recognition of radiation protection officers, if such recognition is provided for in national legislation.

*Article 15***Training of exposed workers and information provided to them**

1. Member States shall require the undertaking to inform exposed workers on:
 - (a) the radiation health risks involved in their work;
 - (b) the general radiation protection procedures and precautions to be taken;
 - (c) the radiation protection procedures and precautions connected with the operational and working conditions of both the practice in general and each type of workstation or work to which they may be assigned;
 - (d) the relevant parts of the emergency response plans and procedures;
 - (e) the importance of complying with the technical, medical and administrative requirements.

In the case of outside workers, their employer shall ensure that the information required in points (a), (b) and (e) is provided.

2. Member States shall require the undertaking or, in case of outside workers, the employer, to inform exposed workers on the importance of making an early declaration of pregnancy in view of the risks of exposure for the unborn child.
3. Member States shall require the undertaking or, in case of outside workers, the employer, to inform exposed workers on the importance of announcing the intention to breast-feed an infant in view of the risks of exposure for a breast-fed infant after intake of radionuclides or bodily contamination.
4. Member States shall require that the undertaking or, in case of outside workers, the employer, provides appropriate radiation protection training and information programmes for exposed workers.
5. In addition to the information and training in the field of radiation protection as specified in paragraphs 1, 2, 3 and 4, Member States shall require that the undertaking responsible for high-activity sealed sources shall ensure that such training includes specific requirements for the safe management and control of high-activity sealed sources with a view to preparing the relevant workers adequately for any events affecting the radiation protection. The information and training shall place particular emphasis on the necessary safety requirements and shall contain specific information on the possible consequences of the loss of adequate control of high-activity sealed sources.

*Article 16***Information and training of workers potentially exposed to orphan sources**

1. Member States shall ensure that the management of installations where orphan sources are most likely to be found or processed, including large metal scrap yards and major metal scrap recycling installations, and in significant nodal transit points, are informed of the possibility that they may be confronted with a source.

2. Member States shall encourage the management of installations referred to in paragraph 1 to ensure that where workers in their installation may be confronted with a source, they are:

- (a) advised and trained in the visual detection of sources and their containers;
- (b) informed of basic facts about ionising radiation and its effects;
- (c) informed of and trained in the actions to be taken on site in the event of the detection or suspected detection of a source.

*Article 17***Prior information and training for emergency workers**

1. Member States shall ensure that emergency workers who are identified in an emergency response plan or management system are given adequate and regularly updated information on the health risks their intervention might involve and on the precautionary measures to be taken in such an event. This information shall take into account the range of potential emergencies and the type of intervention.

2. As soon as an emergency occurs, the information referred to in paragraph 1 shall be supplemented appropriately, having regard to the specific circumstances.

3. Member States shall ensure that the undertaking or the organisation responsible for the protection of emergency workers provides to emergency workers referred to in paragraph 1 appropriate training as provided for in the emergency management system set out in Article 97. Where appropriate, this training shall include practical exercises.

4. Member States shall ensure that, in addition to the emergency response training referred to in paragraph 3, the undertaking or the organisation responsible for the protection of emergency workers provides these workers with appropriate radiation protection training and information.

*Article 18***Education, information and training in the field of medical exposure**

1. Member States shall ensure that practitioners and the individuals involved in the practical aspects of medical radiological procedures have adequate education, information and theoretical and practical training for the purpose of medical radiological practices, as well as relevant competence in radiation protection.

For this purpose Member States shall ensure that appropriate curricula are established and shall recognise the corresponding diplomas, certificates or formal qualifications.

2. Individuals undergoing relevant training programmes may participate in practical aspects of medical radiological procedures as set out in Article 57(2).

3. Member States shall ensure that continuing education and training after qualification is provided and, in the special case of the clinical use of new techniques, training is provided on these techniques and the relevant radiation protection requirements.

4. Member States shall encourage the introduction of a course on radiation protection in the basic curriculum of medical and dental schools.

CHAPTER V

JUSTIFICATION AND REGULATORY CONTROL OF PRACTICES

SECTION 1

*Justification and prohibition of practices**Article 19***Justification of practices**

1. Member States shall ensure that new classes or types of practices resulting in exposure to ionising radiation are justified before being adopted.

2. Member States shall consider a review of existing classes or types of practices with regard to their justification whenever there is new and important evidence about their efficacy or potential consequences or new and important information about other techniques and technologies.

3. Practices involving occupational and public exposures shall be justified as a class or type of practice, taking into account both categories of exposures.

4. Practices involving medical exposure shall be justified both as a class or type of practice, taking into account medical and, where relevant, associated occupational and public exposures, and at the level of each individual medical exposure as specified in Article 55.

*Article 20***Practices involving consumer products**

1. Member States shall require any undertaking intending to manufacture or import a consumer product for which the intended use is likely to be a new class or type of practice, to provide the competent authority with all relevant information, including that listed in Annex IV, Section A, so as to allow the implementation of the justification requirement in Article 19(1).
2. On the basis of an assessment of this information, Member States shall ensure that the competent authority, as outlined in Annex IV, Section B, decides whether the intended use of the consumer product is justified.
3. Without prejudice to paragraph 1, Member States shall ensure that the competent authority which has received information according to that paragraph, informs the point of contact for the competent authorities of other Member States of this receipt and, upon request, of its decision and the basis for that decision.
4. Member States shall prohibit the sale or the making available to the public of consumer products if their intended use is not justified or their use would not fulfil the criteria for exemption from notification under Article 26.

*Article 21***Prohibition of practices**

1. Member States shall prohibit the deliberate addition of radioactive substances in the production of foodstuffs, animal feeding stuffs, and cosmetics, and shall prohibit the import or export of such products.
2. Without prejudice to the Directive 1999/2/EC, practices involving the activation of material resulting in an increase in activity in a consumer product, which at the time of placing on the market cannot be disregarded from a radiation protection point of view, shall be deemed not to be justified. However, the competent authority may evaluate specific types of practices within this class with regard to their justification.
3. Member States shall prohibit the deliberate addition of radioactive substances in the manufacture of toys and personal ornaments and shall prohibit the import or export of such products.
4. Member States shall prohibit practices involving the activation of materials used in toys and personal ornaments, resulting, at the time of the placing on the market of the products or of their manufacture, in an increase in activity, which cannot be disregarded from a radiation protection point of view, and shall prohibit the import or export of such products or materials.

*Article 22***Practices involving the deliberate exposure of humans for non-medical imaging purposes**

1. Member States shall ensure the identification of practices involving non-medical imaging exposure, in particular taking into account the practices included in Annex V.
2. Member States shall ensure that special attention is given to the justification of practices involving non-medical imaging exposure, in particular:
 - (a) all types of practices involving non-medical imaging exposure shall be justified before being generally accepted;
 - (b) each particular application of a generally accepted type of practice shall be justified;
 - (c) all individual non-medical imaging exposure procedures using medical radiological equipment shall be justified in advance, taking into account the specific objectives of the procedure and the characteristics of the individual involved;
 - (d) the general and particular justification of practices involving non-medical imaging exposure, as specified in (a) and (b), may be subject to review;
 - (e) circumstances warranting non-medical imaging exposures, without individual justification of each exposure, shall be subject to regular review.
3. Member States may exempt justified practices involving non-medical imaging exposure using medical radiological equipment from the requirement for dose constraints according to point (b) of Article 6(1) and from the dose limits set out in Article 12.
4. Where a Member State has determined that a particular practice involving non-medical imaging exposure is justified, it shall ensure that:
 - (a) the practice is subject to authorisation;
 - (b) requirements for the practice, including criteria for individual implementation, are established by the competent authority, in cooperation with other relevant bodies and medical scientific societies, as appropriate;
 - (c) for procedures using medical radiological equipment
 - (i) relevant requirements identified for medical exposure as set out in Chapter VII are applied, including those for equipment, optimisation, responsibilities, training and special protection during pregnancy and the appropriate involvement of the medical physics expert;

- (ii) where appropriate, specific protocols, consistent with the objective of the exposure and required image quality, are put in place;
- (iii) where practicable, specific diagnostic reference levels are put in place;
- (d) for procedures not using medical radiological equipment, dose constraints are significantly below the dose limit for members of the public;
- (e) information is provided to and consent sought from the individual to be exposed, allowing for cases where the law enforcement authorities may proceed without consent of the individual according to national legislation;

SECTION 2

Regulatory control

Article 23

Identification of practices involving naturally-occurring radioactive material

Member States shall ensure the identification of classes or types of practice involving naturally-occurring radioactive material and leading to exposure of workers or members of the public which cannot be disregarded from a radiation protection point of view. Such identification shall be carried out by appropriate means taking into account industrial sectors listed in Annex VI.

Article 24

Graded approach to regulatory control

1. Member States shall require practices to be subject to regulatory control for the purpose of radiation protection, by way of notification, authorisation and appropriate inspections, commensurate with the magnitude and likelihood of exposures resulting from the practice, and commensurate with the impact that regulatory control may have in reducing such exposures or improving radiological safety.
2. Without prejudice to Articles 27 and 28, where appropriate, and in accordance with the general exemption criteria set out in Annex VII, regulatory control may be limited to notification and an appropriate frequency of inspections. For this purpose, Member States may establish general exemptions or allow the competent authority to decide to exempt notified practices from the requirement of authorisation on the basis of the general criteria specified in Annex VII; in the case of moderate amounts of material, as specified by Member States, the activity concentration values laid down in Annex VII, Table B, column 2 may be used for this purpose.
3. Notified practices which are not exempted from authorisation shall be subject to regulatory control through registration or licensing.

Article 25

Notification

1. Member States shall ensure that notification is required for all justified practices, including those identified according to Article 23. The notification shall be made prior to the practice commencing or, for existing practices, as soon as possible once this requirement is applicable. For practices subject to notification, Member States shall specify the information to be provided in conjunction with the notification. Where an application for an authorisation is submitted, no separate notification is needed.

Practices may be exempted from notification, as specified in Article 26.

2. Member States shall ensure that notification is required for workplaces specified in Article 54(3), and for existing exposure situations that are managed as a planned exposure situation, as specified in Article 100(3).

3. Notwithstanding the exemption criteria laid down in Article 26, in situations identified by Member States where there is concern that a practice identified in accordance with Article 23 may lead to the presence of naturally-occurring radionuclides in water liable to affect the quality of drinking water supplies or affect any other exposure pathways, so as to be of concern from a radiation protection point of view, the competent authority may require that the practice be subject to notification.

4. Human activities involving radioactively contaminated materials resulting from authorised releases or materials cleared in accordance with Article 30 shall not be managed as a planned exposure situation and, hence, are not required to be notified.

Article 26

Exemption from notification

1. Member States may decide that justified practices involving the following do not need to be notified:
 - (a) radioactive materials where the quantities of the activity involved do not exceed in total the exemption values set out in Table B, column 3, of Annex VII, or higher values that, for specific applications, are approved by the competent authority and satisfy the general exemption and clearance criteria set out in Annex VII; or
 - (b) without prejudice to Article 25(4), radioactive materials where the activity concentrations do not exceed the exemption values set out in Table A of Annex VII, or higher values that, for specific applications, are approved by the competent authority and satisfy the general exemption and clearance criteria set out in Annex VII; or

- (c) apparatus containing a sealed source, provided that:
- (i) the apparatus is of a type approved by the competent authority;
 - (ii) the apparatus does not cause, in normal operating conditions, a dose rate exceeding $1 \mu\text{Sv} \cdot \text{h}^{-1}$ at a distance of 0.1 m from any accessible surface; and
 - (iii) conditions for recycling or disposal have been specified by the competent authority; or
- (d) any electrical apparatus provided that:
- (i) it is a cathode ray tube intended for the display of visual images, or other electrical apparatus operating at a potential difference not exceeding 30 kilo volt (kV), or it is of a type approved by the competent authority; and
 - (ii) it does not cause, in normal operating conditions, a dose rate exceeding $1 \mu\text{Sv} \cdot \text{h}^{-1}$ at a distance of 0.1 m from any accessible surface.

2. Member States may exempt specific types of practices from the notification requirement subject to compliance with the general exemption criteria established in point 3 of Annex VII, on the basis of an assessment showing that exemption is the best option.

Article 27

Registration or licensing

1. Member States shall require either registration or licensing of the following practices:
- (a) the operation of radiation generators or accelerators or radioactive sources for medical exposures or for non-medical imaging purposes;
 - (b) the operation of radiation generators or accelerators, except electron microscopes, or radioactive sources for purposes not covered by point (a).
2. Member States may require registration or licensing for other types of practices.
3. The regulatory decision to submit types of practices to either registration or licensing may be based on regulatory experience, taking into account the magnitude of expected or potential doses, as well as the complexity of the practice.

Article 28

Licensing

Member States shall require licensing for the following practices:

- (a) the deliberate administration of radioactive substances to persons and, in so far as the radiation protection of

human beings is concerned, animals for the purpose of medical or veterinary diagnosis, treatment or research;

- (b) the operation and decommissioning of any nuclear facility and the exploitation and closure of uranium mines;
- (c) the deliberate addition of radioactive substances in the production or manufacture of consumer products or other products, including medicinal products, and the import of such products;
- (d) any practice involving a high-activity sealed source;
- (e) the operation, decommissioning and closure of any facility for the long term storage or disposal of radioactive waste, including facilities managing radioactive waste for this purpose;
- (f) practices discharging significant amounts of radioactive material with airborne or liquid effluent into the environment.

Article 29

Authorisation procedure

1. For authorisation purposes, Member States shall require the provision of information relevant to radiation protection that is commensurate with the nature of the practice and the radiological risks involved.
2. In the case of licensing and when determining what information must be provided under paragraph 1, Member States shall take into account the indicative list in Annex IX.
3. A licence shall include, as appropriate, specific conditions and reference to requirements in national legislation so as to ensure that the elements of the licence are legally enforceable, and impose appropriate restrictions on the operational limits and conditions of operation. National legislation or the specific conditions shall also require, when appropriate, the formal and documented implementation of the principle of optimisation.
4. Where applicable, national legislation or a licence shall include conditions on the discharge of radioactive effluent, in accordance with the requirements laid down in Chapter VIII for the authorisation of the release of radioactive effluent into the environment.

Article 30

Release from regulatory control

1. Member States shall ensure that the disposal, recycling or reuse of radioactive materials arising from any authorised practice is subject to authorisation.

2. Materials for disposal, recycling or reuse may be released from regulatory control provided that the activity concentrations:

- (a) for solid material do not exceed the clearance levels set out in Table A of Annex VII; or
- (b) comply with specific clearance levels and associated requirements for specific materials or for materials originating from specific types of practices; these specific clearance levels shall be established in national legislation or by the national competent authority, following the general exemption and clearance criteria set out in Annex VII, and taking into account technical guidance provided by the Community.

3. Member States shall ensure that for the clearance of materials containing naturally-occurring radionuclides, where these result from authorised practices in which natural radionuclides are processed for their radioactive, fissile or fertile properties, the clearance levels comply with the dose criteria for clearance of materials containing artificial radionuclides.

4. Member States shall not permit the deliberate dilution of radioactive materials for the purpose of them being released from regulatory control. The mixing of materials that takes place in normal operations where radioactivity is not a consideration is not subject to this prohibition. The Competent Authority may authorise, in specific circumstances, the mixing of radioactive and non-radioactive materials for the purposes of re-use or recycling.

CHAPTER VI

OCCUPATIONAL EXPOSURES

Article 31

Responsibilities

1. Member States shall ensure that the undertaking is responsible for assessing and implementing arrangements for the radiation protection of exposed workers.

2. In the case of outside workers, the responsibilities of the undertaking and the employer of outside workers are stipulated in Article 51.

3. Without prejudice to paragraphs 1 and 2, Member States shall arrange for a clear allocation of responsibilities for the protection of workers in any exposure situation, to an undertaking, an employer or any other organisation, in particular for the protection of:

- (a) emergency workers;
- (b) workers involved in the remediation of contaminated land, buildings and other constructions;

(c) workers who are exposed to radon at work, in the situation specified in Article 54(3).

This shall also apply to the protection of self-employed individuals and individuals who work on a voluntary basis.

4. Member States shall ensure that employers have access to information on the possible exposure of their employees under the responsibility of another employer or undertaking.

Article 32

Operational protection of exposed workers

Member States shall ensure that the operational protection of exposed workers is based, in accordance with the relevant provisions of this Directive, on:

- (a) prior evaluation to identify the nature and magnitude of the radiological risk to exposed workers;
- (b) optimisation of radiation protection in all working conditions, including occupational exposures as a consequence of practices involving medical exposures;
- (c) classification of exposed workers into different categories;
- (d) control measures and monitoring relating to the different areas and working conditions, including, where necessary, individual monitoring;
- (e) medical surveillance;
- (f) education and training.

Article 33

Operational protection of apprentices and students

1. Member States shall ensure that the exposure conditions and operational protection of apprentices and students aged 18 years or over referred to in Article 11(1) is equivalent to that of exposed workers of category A or B as appropriate.

2. Member States shall ensure that the exposure conditions and operational protection of apprentices and students aged between 16 and 18 years referred to in Article 11(2) is equivalent to that of exposed workers of category B.

Article 34

Consultations with a radiation protection expert

Member States shall require undertakings to seek advice from a radiation protection expert within their areas of competence as outlined in Article 82, on the issues below that are relevant to the practice:

- (a) the examination and testing of protective devices and measuring instruments;

- (b) prior critical review of plans for installations from the point of view of radiation protection;
- (c) the acceptance into service of new or modified radiation sources from the point of view of radiation protection;
- (d) regular checking of the effectiveness of protective devices and techniques;
- (e) regular calibration of measuring instruments and regular checking that they are serviceable and correctly used.

Article 35

Arrangements in workplaces

1. Member States shall ensure that for the purposes of radiation protection, arrangements are made as regards all workplaces where workers are liable to receive an exposure greater than an effective dose of 1 mSv per year or an equivalent dose of 15 mSv per year for the lens of the eye or 50 mSv per year for the skin and extremities.

Such arrangements shall be appropriate to the nature of the installations and sources and to the magnitude and nature of the risks.

2. For workplaces specified in Article 54(3), and where the exposure of workers is liable to exceed an effective dose of 6 mSv per year or a corresponding time-integrated radon exposure value determined by the Member State, these shall be managed as a planned exposure situation and the Member States shall determine which requirements set out in this Chapter are appropriate. For workplaces specified in Article 54(3), and where the effective dose to workers is less than or equal to 6 mSv per year or the exposure less than the corresponding time-integrated radon exposure value, the competent authority shall require that exposures are kept under review.

3. For an undertaking operating aircraft where the effective dose to the crew from cosmic radiation is liable to exceed 6 mSv per year, the relevant requirements set out in this Chapter shall apply, allowing for the specific features of this exposure situation. Member States shall ensure that where the effective dose to the crew is liable to be above 1 mSv per year, the competent authority requires the undertaking to take appropriate measures, in particular:

- (a) to assess the exposure of the crew concerned;
- (b) to take into account the assessed exposure when organising working schedules with a view to reducing the doses of highly exposed crew;
- (c) to inform the workers concerned of the health risks their work involves and their individual dose.
- (d) to apply Article 10(1) to pregnant air crew.

Article 36

Classification of workplaces

1. Member States shall ensure that arrangements in workplaces include a classification into different areas, where appropriate, on the basis of an assessment of the expected annual doses and the probability and magnitude of potential exposures.

2. A distinction shall be made between controlled areas and supervised areas. Member States shall ensure that the competent authority establishes guidance on the classification of controlled and supervised areas with regard to particular circumstances.

3. Member States shall ensure that the undertaking keeps under review the working conditions in controlled and supervised areas.

Article 37

Controlled areas

1. Member States shall ensure that the minimum requirements for a controlled area are the following:

- (a) The controlled area shall be delineated and access to it shall be restricted to individuals who have received appropriate instructions and shall be controlled in accordance with written procedures provided by the undertaking. Wherever there is a significant risk of the spread of radioactive contamination, specific arrangements shall be made, including for the access and exit of individuals and goods and for monitoring contamination within the controlled area and, where appropriate, in the adjacent area.
- (b) Taking into account the nature and extent of radiological risks in the controlled area, radiological surveillance of the workplace shall be organised in accordance with the provisions of Article 39.
- (c) Signs indicating the type of area, the nature of the sources and their inherent risks shall be displayed.
- (d) Working instructions appropriate to the radiological risk associated with the sources and the operations involved shall be laid down.
- (e) The worker shall receive specific training in connection with the characteristics of the workplace and the activities.
- (f) The worker shall be provided with the appropriate personal protective equipment.

2. Member States shall ensure that the undertaking is responsible for implementation of these duties taking into account the advice provided by the radiation protection expert.

Article 38

Supervised areas

1. Member States shall ensure that the requirements for a supervised area are the following:

- (a) taking into account the nature and extent of radiological risks in the supervised area, radiological surveillance of the workplace shall be organised in accordance with the provisions of Article 39;
- (b) if appropriate, signs indicating the type of area, the nature of the sources and their inherent risks shall be displayed;
- (c) if appropriate, working instructions appropriate to the radiological risk associated with the sources and the operations involved shall be laid down.

2. Member States shall ensure that the undertaking is responsible for implementation of these duties taking into account the advice provided by the radiation protection expert.

Article 39

Radiological surveillance of the workplace

1. Member States shall ensure that the radiological surveillance of the workplace referred to in point (b) of Articles 37(1) and point (a) of Article 38(1) comprises, where appropriate:

- (a) the measurement of external dose rates, indicating the nature and quality of the radiation in question;
- (b) the measurement of the activity concentration in air and the surface density of contaminating radionuclides, indicating their nature and their physical and chemical states.

2. The results of these measurements shall be recorded and shall be used, if necessary, for estimating individual doses, as provided for in Article 41.

Article 40

Categorisation of exposed workers

1. Member States shall ensure that for the purposes of monitoring and surveillance, a distinction is made between two categories of exposed workers:

- (a) category A: those exposed workers who are liable to receive an effective dose greater than 6 mSv per year or an equivalent dose greater than 15 mSv per year for the lens of the eye or greater than 150 mSv per year for skin and extremities;

- (b) category B: those exposed workers who are not classified as category A workers.

2. Member States shall require the undertaking or, in the case of outside workers, the employer, to decide on the categorisation of individual workers prior to their taking up work that may give rise to exposure, and to regularly review this categorisation on the basis of working conditions and medical surveillance. The distinction shall also take into account potential exposures.

Article 41

Individual monitoring

1. Member States shall ensure that category A workers are systematically monitored based on individual measurements performed by a dosimetry service. In cases where category A workers are liable to receive significant internal exposure or significant exposure of the lens of the eye or extremities, an adequate system for monitoring shall be set up.

2. Member States shall ensure that monitoring for category B workers is at least sufficient to demonstrate that such workers are correctly classified in category B. Member States may require individual monitoring and if necessary individual measurements, performed by a dosimetry service, for category B workers.

3. In cases where individual measurements are not possible or inadequate, the individual monitoring shall be based on an estimate arrived at from individual measurements made on other exposed workers, from the results of the surveillance of the workplace provided for in Article 39 or on the basis of calculation methods approved by the competent authority.

Article 42

Dose assessment in the case of accidental exposure

Member States shall ensure that in the case of accidental exposure, the undertaking is required to assess the relevant doses and their distribution in the body.

Article 43

Recording and reporting of results

1. Member States shall ensure that a record containing the results of individual monitoring is made for each category A worker and for each category B worker where such monitoring is required by the Member State.

2. For the purposes of paragraph 1, the following information on exposed workers shall be retained:

- (a) a record of the exposures measured or estimated, as the case may be, of individual doses pursuant to Articles 41, 42, 51, 52, 53 and, if decided by the Member State pursuant to Article 35(2), 54(3);

- (b) in the case of exposures as referred to in Articles 42, 52 and 53, the reports relating to the circumstances and the action taken;
- (c) the results of workplace monitoring used to assess individual doses where necessary.

3. The information referred to in paragraph 1 shall be retained during the period of their working life involving exposure to ionising radiation and afterwards until they have or would have attained the age of 75 years, but in any case not less than 30 years after termination of the work involving exposure.

4. Exposures as referred to in Articles 42, 52 53 and, if decided by the Member State pursuant to Article 35(2), 54(3) shall be recorded separately in the dose record referred to in paragraph 1.

5. The dose record referred to in paragraph 1 shall be submitted to the data system for individual radiological monitoring established by the Member State in accordance with the provisions of Annex X.

Article 44

Access to the results of individual monitoring

1. The Member States shall require that the results of the individual monitoring set out in Articles 41, 42, 52, 53 and, if decided by the Member State pursuant to Article 35(2), 54(3) be:

- (a) made available to the competent authority, to the undertaking, and to the employer of outside workers;
- (b) made available to the worker concerned in accordance with paragraph 2;
- (c) submitted to the occupational health service in order for it to interpret the implications of the results for human health, as provided for in Article 45(2);
- (d) submitted to the data system for individual radiological monitoring established by the Member State in accordance with provisions set out in Annex X.

2. Member States shall require the undertaking, or in case of outside workers, the employer, to grant workers, at their request, access to the results of their individual monitoring, including the results of measurements which may have been used in estimating these results, or to the results of the assessment of their doses made as a result of surveillance of the workplace.

3. Member States shall determine the arrangements under which the results of individual monitoring are conveyed.

4. The data system for individual radiological monitoring shall cover at least the data listed in Annex X, Section A.

5. In the case of an accidental exposure, Member States shall require the undertaking to communicate the results of individual monitoring and dose assessments to the individual and the competent authority without delay.

6. Member States shall ensure that arrangements are in place for the appropriate exchange, among the undertaking, in the case of an outside worker, the employer, the competent authority, occupational health services, radiation protection experts, or dosimetry services of all relevant information on the doses previously received by a worker in order to perform the medical examination prior to employment or classification as a category A worker pursuant to Article 45 and to control the further exposure of workers.

Article 45

Medical surveillance of exposed workers

1. Member States shall ensure that the medical surveillance of exposed workers is based on the principles that govern occupational medicine generally.

2. The medical surveillance of category A workers shall be undertaken by the occupational health service. This medical surveillance shall allow for the state of health of workers under surveillance to be ascertained as regards their fitness for the tasks assigned to them. To this end, the occupational health service shall have access to any relevant information they require, including the environmental conditions in the working premises.

3. Medical surveillance shall include:

- (a) a medical examination prior to employment or classification as a category A worker to determine the worker's fitness for a post as a category A worker for which the worker is being considered;
- (b) periodic reviews of health at least once a year, in order to determine whether the category A workers remain fit to perform their duties. The nature of these reviews, which can be performed as many times as the occupational health service considers necessary, shall depend on the type of work and on the individual worker's state of health.

4. The occupational health service may indicate the need for medical surveillance to continue after cessation of work for as long as they consider it necessary to safeguard the health of the person concerned.

*Article 46***Medical classification**

Member States shall ensure that the following medical classification is established with respect to fitness for work as a category A worker:

- (a) fit;
- (b) fit, subject to certain conditions;
- (c) unfit.

*Article 47***Prohibition to employ or classify unfit workers**

Member States shall ensure that no worker may be employed or classified for any period in a specific post as a category A worker if medical surveillance establishes that the worker is unfit for that specific post.

*Article 48***Medical records**

1. Member States shall ensure that a medical record is opened for each category A worker and kept up to date so long as the worker remains a worker in that category. Thereafter, it shall be retained until the individual has or would have attained the age of 75 years, but in any case not less than 30 years after termination of the work involving exposure to ionising radiation.

2. The medical record shall include information regarding the nature of the employment, the results of the medical examinations prior to employment or classification as a category A worker, the periodic reviews of health and the record of doses required by Article 43.

*Article 49***Special medical surveillance**

1. Member States shall ensure that in addition to the medical surveillance of exposed workers provided for in Article 45, provision is made for any further action considered necessary by the occupational health service for the health protection of exposed individuals, such as further examinations, decontamination measures, urgent remedial treatment or other actions identified by the occupational health service.

2. Special medical surveillance shall be performed in each case where any of the dose limits laid down in Article 9 has been exceeded.

3. Subsequent exposure conditions shall be subject to the agreement of the occupational health service.

*Article 50***Appeals**

Member States shall lay down the procedure for appeal against the findings and decisions made pursuant to Articles 46, 47 and 49.

*Article 51***Protection of outside workers**

1. Member States shall ensure that the system for individual radiological monitoring affords outside workers equivalent protection to that for exposed workers employed on a permanent basis by the undertaking.

2. Member States shall ensure that the undertaking is responsible, either directly or through contractual agreements with the employer of outside workers, for the operational aspects of the radiation protection of outside workers that are directly related to the nature of their activities in the undertaking.

3. In particular, Member States shall ensure that, as a minimum requirement, the undertaking shall:

- (a) for category A workers entering controlled areas, check that the outside worker concerned has been passed as medically fit for the activities to be assigned to the worker;
- (b) check whether the categorisation of the outside worker is appropriate in relation to the doses liable to be received within the undertaking;
- (c) for entry into controlled areas, ensure that, in addition to the basic training in radiation protection the outside worker has received specific instructions and training in connection with the characteristics of the workplace and the conducted activities, in accordance with points (c) and (d) of Article 15(1);
- (d) for entry into supervised areas, ensure that the outside worker has received working instructions appropriate to the radiological risk associated with the sources and the operations involved, as required in point (c) of Article 38(1);
- (e) ensure that the outside worker has been issued with the necessary personal protective equipment;
- (f) ensure that the outside worker receives individual exposure monitoring appropriate to the nature of the activities, and any operational dosimetric monitoring that may be necessary;
- (g) ensure compliance with the system of protection as defined in Chapter III;
- (h) for entry into controlled areas, ensure or take all appropriate steps to ensure that after every activity the radiological data from individual exposure monitoring of each category A outside worker within the meaning of Annex X, Section B, point 2, are recorded.

4. Member States shall ensure that employers of outside workers ensure, either directly or through contractual agreements with the undertaking, that the radiation protection of their workers is in accordance with the relevant provisions of this Directive, in particular by:

- (a) ensuring compliance with the system of protection as defined in Chapter III;
- (b) ensuring that the information and training in the field of radiation protection referred to in points (a), (b) and (e) of Article 15(1), Article 15(2), (3) and (4) is provided.
- (c) guaranteeing that their workers are subject to appropriate assessment of exposure and, for category A workers, medical surveillance, under the conditions laid down in Articles 39 and 41 to 49;
- (d) ensuring that the radiological data from the individual exposure monitoring of each of their category A workers within the meaning of Annex X, Section B, point 1, are kept up to date in the data system for individual radiological monitoring referred to in point (d) of Article 44(1).

5. Member States shall ensure that all outside workers make their own contributions, as far as practicable, towards the protection to be afforded to them by the radiological monitoring system referred to in paragraph 1, without prejudice to the responsibilities of the undertaking or employer.

Article 52

Specialty authorised exposures

1. Member States may decide that in exceptional circumstances evaluated case by case, excluding emergencies, the competent authority may, where a specific operation so requires, authorise individual occupational exposures of identified workers exceeding the dose limits set out in Article 9, provided that such exposures are limited in time, confined to certain working areas and within the maximum exposure levels defined for the particular case by the competent authority. The following conditions shall be taken into account:

- (a) only category A workers as defined in Article 40 or spacecraft crew may be subject to such exposures;
- (b) apprentices, students, pregnant workers, and, if there is a risk of intake or bodily contamination, breastfeeding workers, are excluded from such exposures;
- (c) the undertaking justifies such exposures in advance and thoroughly discuss them with the workers, their representatives, the occupational health service and the radiation protection expert;

(d) information about the risks involved and the precautions to be taken during the operation are provided to the relevant workers in advance;

(e) the workers have consented;

(f) all doses relating to such exposures are separately recorded in the medical record referred to in Article 48 and the individual record referred to in Article 43.

2. The exceeding of dose limits as a result of specially authorised exposures shall not necessarily constitute a reason for excluding workers from their usual occupation or relocating them, without their agreement.

3. Member States shall ensure that the exposure of spacecraft crew above the dose limits is managed as a specially authorised exposure.

Article 53

Emergency occupational exposure

1. Member States shall ensure that emergency occupational exposures shall remain, whenever possible, below the values of the dose limits laid down in Article 9.

2. For situations where the above condition is not feasible, the following conditions shall apply:

- a) reference levels for emergency occupational exposure shall be set, in general below an effective dose of 100 mSv;
- b) in exceptional situations, in order to save life, prevent severe radiation-induced health effects, or prevent the development of catastrophic conditions, a reference level for an effective dose from external radiation of emergency workers may be set above 100 mSv, but not exceeding 500 mSv.

3. Member States shall ensure that emergency workers who are liable to undertake actions whereby an effective dose of 100 mSv may be exceeded are clearly and comprehensively informed in advance of the associated health risks and the available protection measures and undertake these actions voluntarily.

4. In the event of an emergency occupational exposure, Member States shall require radiological monitoring of emergency workers. Individual monitoring or assessment of the individual doses shall be carried out as appropriate to the circumstances.

5. In the event of an emergency occupational exposure, Member States shall require special medical surveillance of emergency workers, as defined in Article 49, to be carried out as appropriate to the circumstances.

Article 54

Radon in workplaces

1. Member States shall establish national reference levels for indoor radon concentrations in workplaces. The reference level for the annual average activity concentration in air shall not be higher than 300 Bq m^{-3} , unless it is warranted by national prevailing circumstances.

2. Member States shall require that radon measurements are carried out:

- (a) in workplaces within the areas identified in accordance with Article 103(3), that are located on the ground floor or basement level, taking into account parameters contained in the national action plan as under point 2 of Annex XVIII, as well as
- (b) in specific types of workplaces identified in the national action plan taking into account point 3 of Annex XVIII.

3. In areas within workplaces, where the radon concentration (as an annual average), continues to exceed the national reference level, despite the action taken in accordance with the principle of optimisation as set out in Chapter III, Member States shall require this situation to be notified in accordance with Article 25(2) and Article 35(2) shall apply.

CHAPTER VII

MEDICAL EXPOSURES

Article 55

Justification

1. Medical exposure shall show a sufficient net benefit, weighing the total potential diagnostic or therapeutic benefits it produces, including the direct benefits to health of an individual and the benefits to society, against the individual detriment that the exposure might cause, taking into account the efficacy, benefits and risks of available alternative techniques having the same objective but involving no or less exposure to ionising radiation.

2. Member States shall ensure that the principle defined in paragraph 1 is applied and in particular that:

- (a) new types of practices involving medical exposure are justified in advance before being generally adopted;
- (b) all individual medical exposures are justified in advance taking into account the specific objectives of the exposure and the characteristics of the individual involved.
- (c) if a type of practice involving medical exposure is not justified in general, a specific individual exposure of this

type can be justified, where appropriate, in special circumstances, to be evaluated on a case-by-case basis and documented.

- (d) the referrer and the practitioner, as specified by Member States, seek, where practicable, to obtain previous diagnostic information or medical records relevant to the planned exposure and consider these data to avoid unnecessary exposure.
- (e) medical exposure for medical or biomedical research are examined by an ethics committee, set up in accordance with national procedures and/or by the competent authority;
- (f) specific justification for medical radiological procedures to be performed as part of a health screening programme are carried out by the competent authority in conjunction with appropriate medical scientific societies or relevant bodies.
- (g) the exposure of carers and comforters show a sufficient net benefit, taking into account the direct health benefits to a patient, the possible benefits to the carer / comforter and the detriment that the exposure might cause.
- (h) any medical radiological procedure on an asymptomatic individual, to be performed for the early detection of disease, is part of a health screening programme, or requires specific documented justification for that individual by the practitioner, in consultation with the referrer, following guidelines from relevant medical scientific societies and the competent authority. Special attention shall be given to the provision of information to the individual subject to medical exposure, as required by point (d) of Article 57(1).

Article 56

Optimisation

1. Member States shall ensure that all doses due to medical exposure for radiodiagnostic, interventional radiology, planning, guiding and verification purposes are kept as low as reasonably achievable consistent with obtaining the required medical information, taking into account economic and societal factors.

For all medical exposure of patients for radiotherapeutic purposes, exposures of target volumes shall be individually planned and their delivery appropriately verified taking into account that doses to non-target volumes and tissues shall be as low as reasonably achievable and consistent with the intended radiotherapeutic purpose of the exposure.

2. Member States shall ensure the establishment, regular review and use of diagnostic reference levels for radiodiagnostic examinations, having regard to the recommended European diagnostic reference levels where available, and where appropriate, for interventional radiology procedures, and the availability of guidance for this purpose.

3. Member States shall ensure that for each medical or biomedical research project involving medical exposure:

- (a) the individuals concerned participate voluntarily;
- (b) these individuals are informed about the risks of exposure;
- (c) a dose constraint is established for individuals for whom no direct medical benefit is expected from exposure;
- (d) in the case of patients who voluntarily accept to undergo an experimental medical practice and who are expected to receive a diagnostic or therapeutic benefit from this practice, the dose levels concerned shall be considered on an individual basis by the practitioner and/or referrer prior to the exposure taking place.

4. Member States shall ensure that the optimisation includes the selection of equipment, the consistent production of adequate diagnostic information or therapeutic outcomes, the practical aspects of medical radiological procedures, quality assurance, and the assessment and evaluation of patient doses or the verification of administered activities, taking into account economic and societal factors.

5. Member States shall ensure that:

- (a) dose constraints are established for the exposure of carers and comforters, where appropriate;
- (b) appropriate guidance is established for the exposure of carers and comforters.

6. Member States shall ensure that in the case of a patient undergoing treatment or diagnosis with radionuclides, the practitioner or the undertaking, as specified by Member States, provides the patient or their representative with information on the risks of ionising radiation and appropriate instructions with a view to restricting doses to persons in contact with the patient as far as reasonably achievable. For therapeutic procedures these shall be written instructions.

These instructions shall be handed out before leaving the hospital or clinic or a similar institution.

Article 57

Responsibilities

1. Member States shall ensure that:

- (a) any medical exposure takes place under the clinical responsibility of a practitioner;
- (b) the practitioner, the medical physics expert and those entitled to carry out practical aspects of medical radiological procedures are involved, as specified by Member States, in the optimisation process;

(c) the referrer and the practitioner are involved, as specified by Member States, in the justification process of individual medical exposures;

(d) wherever practicable and prior to the exposure taking place, the practitioner or the referrer, as specified by Member States, ensures that the patient or their representative is provided with adequate information relating to the benefits and risks associated with the radiation dose from the medical exposure. Similar information as well as relevant guidance shall be given to carers and comforters, in accordance with point (b) of Article 56(5).

2. Practical aspects of medical radiological procedures may be delegated by the undertaking or the practitioner, as appropriate, to one or more individuals entitled to act in this respect in a recognised field of specialisation.

Article 58

Procedures

Member States shall ensure that:

- (a) written protocols for every type of standard medical radiological procedure are established for each equipment for relevant categories of patients;
- (b) information relating to patient exposure forms part of the report of the medical radiological procedure;
- (c) referral guidelines for medical imaging, taking into account the radiation doses, are available to the referrers;
- (d) in medical radiological practices, a medical physics expert is appropriately involved, the level of involvement being commensurate with the radiological risk posed by the practice. In particular:
 - (i) in radiotherapeutic practices other than standardised therapeutic nuclear medicine practices, a medical physics expert shall be closely involved;
 - (ii) in standardised therapeutical nuclear medicine practices as well as in radiodiagnostic and interventional radiology practices, involving high doses as referred to in point (c) of Article 61(1), a medical physics expert shall be involved;
 - (iii) for other medical radiological practices not covered by points (a) and (b), a medical physics expert shall be involved, as appropriate, for consultation and advice on matters relating to radiation protection concerning medical exposure.

- (e) clinical audits are carried out in accordance with national procedures;
- (f) appropriate local reviews are undertaken whenever diagnostic reference levels are consistently exceeded and that appropriate corrective action is taken without undue delay.

Article 59

Training and recognition

Member States shall ensure that training and recognition requirements, as laid down in Articles 79, 14 and 18, are met for the practitioner, the medical physics expert and the individuals referred to in Article 57(2).

Article 60

Equipment

1. Member States shall ensure that:

- (a) all medical radiological equipment in use is kept under strict surveillance regarding radiation protection;
- (b) an up-to-date inventory of medical radiological equipment for each medical radiological installation is available to the competent authority;
- (c) appropriate quality assurance programmes and assessment of dose or verification of administered activity are implemented by the undertaking; and
- (d) acceptance testing is carried out before the first use of the equipment for clinical purposes, and performance testing is carried out thereafter on a regular basis, and after any maintenance procedure liable to affect the performance.

2. Member States shall ensure that the competent authority takes steps to ensure that the necessary measures are taken by the undertaking to improve inadequate or defective performance of medical radiological equipment in use. They shall also adopt specific criteria for the acceptability of equipment in order to indicate when appropriate corrective action is necessary, including taking the equipment out of service.

3. Member States shall ensure that:

- (a) the use of fluoroscopy equipment without a device to automatically control the dose rate, or without an image intensifier or equivalent device, is prohibited.
- (b) equipment used for external beam radiotherapy with a nominal beam energy exceeding 1 MeV has a device to

verify key treatment parameters. Equipment installed prior to 6 February 2018 may be exempted from this requirement.

- (c) any equipment used for interventional radiology has a device or a feature informing the practitioner and those carrying out practical aspects of the medical procedures of quantity of radiation produced by the equipment during the procedure. Equipment installed prior to 6 February 2018 may be exempted from this requirement.

- (d) any equipment used for interventional radiology and computed tomography and any new equipment used for planning, guiding and verification purposes has a device or a feature informing the practitioner, at the end of the procedure, of relevant parameters for assessing the patient dose.

- (e) equipment used for interventional radiology and computed tomography has the capacity to transfer the information required under 3(d) to the record of the examination. Equipment installed prior to 6 February 2018 may be exempted from this requirement.

- (f) without prejudice to points (c), (d) and (e) of paragraph 3, new medical radiodiagnostic equipment producing ionising radiation has a device, or an equivalent means, informing the practitioner of relevant parameters for assessing the patient dose. Where appropriate, the equipment shall have the capacity to transfer this information to the record of the examination.

Article 61

Special practices

1. Member States shall ensure that appropriate medical radiological equipment, practical techniques and ancillary equipment is used in medical exposure:

- (a) of children;
- (b) as part of a health screening programme;
- (c) involving high doses to the patient, which may be the case in interventional radiology, nuclear medicine, computed tomography or radiotherapy.

Special attention shall be given to quality assurance programmes and the assessment of dose or verification of administered activity for these practices.

2. Member States shall ensure that practitioners and those individuals referred to in Article 57(2) who perform the exposures referred to in paragraph 1 obtain appropriate training on these medical radiological practices as required by Article 18.

*Article 62***Special protection during pregnancy and breastfeeding**

1. Member States shall ensure that the referrer or the practitioner, as appropriate, inquire, as specified by Member States, whether the individual subject to medical exposure is pregnant or breastfeeding, unless it can be ruled out for obvious reasons or is not relevant for the radiological procedure.
2. If pregnancy cannot be ruled out and depending on the medical radiological procedure, in particular if abdominal and pelvic regions are involved, special attention shall be given to the justification, particularly the urgency, and to the optimisation, taking into account both the expectant individual and the unborn child.
3. In the case of a breastfeeding individual, in nuclear medicine, depending on the medical radiological procedure, special attention shall be given to the justification, particularly the urgency, and to the optimisation, taking into account both the individual and the child.
4. Without prejudice to paragraphs 1, 2 and 3, Member States shall take measures to increase the awareness of individuals to whom this Article applies, through measures such as public notices in appropriate places.

*Article 63***Accidental and unintended exposures**

Member States shall ensure that:

- (a) all reasonable measures are taken to minimise the probability and magnitude of accidental or unintended exposures of individuals subject to medical exposure;
- (b) for radiotherapeutic practices the quality assurance programme includes a study of the risk of accidental or unintended exposures;
- (c) for all medical exposures the undertaking implements an appropriate system for the record keeping and analysis of events involving or potentially involving accidental or unintended medical exposures, commensurate with the radiological risk posed by the practice;
- (d) arrangements are made to inform the referrer and the practitioner, and the patient, or their representative, about clinically significant unintended or accidental exposures and the results of the analysis;
- (e) (i) the undertaking declares as soon as possible to the competent authority the occurrence of significant events as defined by the competent authority;

- (ii) the results of the investigation and the corrective measures to avoid such events are reported to the competent authority within the time period specified by the Member State;

- (f) mechanisms are in place for the timely dissemination of information, relevant to radiation protection in medical exposure, regarding lessons learned from significant events.

*Article 64***Estimates of population doses**

Member States shall ensure that the distribution of individual dose estimates from medical exposure for radiodiagnostic and interventional radiology purposes is determined, taking into consideration where appropriate the distribution by age and gender of the exposed.

CHAPTER VIII

PUBLIC EXPOSURES

SECTION 1

Protection of members of the public and long-term health protection in normal circumstances*Article 65***Operational protection of members of the public**

1. Member States shall ensure that the operational protection of members of the public in normal circumstances from practices subject to licensing shall include, for relevant facilities, the following:
 - (a) examination and approval of the proposed siting of the facility from a radiation protection point of view, taking into account relevant demographic, meteorological, geological, hydrological and ecological conditions;
 - (b) acceptance into service of the facility subject to adequate protection being provided against any exposure or radioactive contamination liable to extend beyond the perimeter of the facility or radioactive contamination liable to extend to the ground beneath the facility;
 - (c) examination and approval of plans for the discharge of radioactive effluents;
 - (d) measures to control the access of members of the public to the facility.
2. The competent authority shall where appropriate establish authorised limits as part of the discharge authorisation and conditions for discharging radioactive effluents which shall:
 - (a) take into account the results of the optimisation of radiation protection;

(b) reflect good practice in the operation of similar facilities.

In addition, these discharge authorisations shall take into account, where appropriate, the results of a generic screening assessment based on internationally recognised scientific guidance, where such an assessment has been required by the Member State, to demonstrate that environmental criteria for long-term human health protection are met.

3. For practices subject to registration, Member States shall ensure the protection of members of the public in normal circumstances through appropriate national regulations and guidance.

Article 66

Estimation of doses to the members of the public

1. Member States shall ensure that arrangements are made for the estimation of doses to members of the public from authorised practices. The extent of such arrangements shall be proportionate to the exposure risk involved.

2. Member States shall ensure the identification of practices for which an assessment of doses to members of the public shall be carried out. Member States shall specify those practices for which this assessment needs to be carried out in a realistic way and those for which a screening assessment is sufficient.

3. For the realistic assessment of doses to the members of the public, the competent authority shall:

- (a) decide on a reasonable extent of surveys to be conducted and information to be taken into account in order to identify the representative person, taking into account the effective pathways for transmission of the radioactive substances;
- (b) decide on a reasonable frequency of monitoring of the relevant parameters as determined in point (a);
- (c) ensure that the estimates of doses to the representative person include:

- i) assessment of the doses due to external radiation, indicating, where appropriate, the type of the radiation in question;
- ii) assessment of the intake of radionuclides, indicating the nature of the radionuclides and, where necessary, their physical and chemical states, and determination of the activity concentrations of these radionuclides in food and drinking water or other relevant environmental media;

iii) assessment of the doses that the representative person, as identified in point (a), is liable to receive;

(d) require records to be kept and be made available on request to all stakeholders relating to measurements of external exposure and contamination, estimates of intakes of radionuclides, and the results of the assessment of the doses received by the representative person.

Article 67

Monitoring of radioactive discharges

1. Member States shall require the undertaking responsible for practices where a discharge authorisation is granted to monitor appropriately or where appropriate evaluate the radioactive airborne or liquid discharges into the environment in normal operation and to report the results to the competent authority.

2. Member States shall require any undertaking responsible for a nuclear power reactor or reprocessing plant to monitor radioactive discharges and report them in accordance with standardised information.

Article 68

Tasks for the undertaking

Member States shall require the undertaking to carry out the following tasks:

- (a) achieve and maintain an optimal level of protection of members of the public;
- (b) accept into service adequate equipment and procedures for measuring and assessing exposure of members of the public and radioactive contamination of the environment;
- (c) check the effectiveness and maintenance of equipment as referred to in point (b) and ensure the regular calibration of measuring instruments;
- (d) seek advice from a radiation protection expert in the performance of the tasks referred to in points (a), (b) and (c).

SECTION 2

Emergency exposure situations

Article 69

Emergency response

1. Member States shall require the undertaking to notify the competent authority immediately of any emergency in relation to the practices for which it is responsible and to take all appropriate action to reduce the consequences.

2. Member States shall ensure that, in the event of an emergency on their territory, the undertaking concerned makes an initial provisional assessment of the circumstances and consequences of the emergency and assists with protective measures.

3. Member States shall ensure that provision is made for protective measures with regard to:

- (a) the radiation source, to reduce or stop the radiation, including the release of radionuclides;
- (b) the environment, to reduce the exposure to individuals resulting from radioactive substances through relevant pathways;
- (c) individuals, to reduce their exposure.

4. In the event of an emergency on or outside its territory, the Member State shall require:

- (a) the organisation of appropriate protective measures, taking account of the real characteristics of the emergency and in accordance with the optimised protection strategy as part of the emergency response plan, whereby the elements to be included in an emergency response plan are indicated in Section B of Annex XI;
- (b) the assessment and recording of the consequences of the emergency and of the effectiveness of the protective measures.

5. The Member State shall, if the situation so requires, ensure that provision is made to organise the medical treatment of those affected.

Article 70

Information to the members of the public likely to be affected in the event of an emergency

1. Member States shall ensure that the members of the public likely to be affected in the event of an emergency are given information about the health protection measures applicable to them and about the action they should take in the event of such an emergency.

2. The information supplied shall include at least the elements set out in Section A of Annex XII.

3. The information shall be communicated to the members of the public referred to in paragraph 1 without any request being made.

4. Member States shall ensure that the information is updated and distributed at regular intervals and whenever significant changes take place. This information shall be permanently available to the public.

Article 71

Information to the members of the public actually affected in the event of an emergency

1. Member States shall ensure that, when an emergency occurs, the members of the public actually affected are

informed without delay about the facts of the emergency, the steps to be taken and, as appropriate, the health protection measures applicable to these members of the public.

2. The information provided shall cover those points listed in Section B of Annex XII which are relevant to the type of emergency.

SECTION 3

Existing exposure situation

Article 72

Environmental monitoring programme

Member States shall ensure that an appropriate environmental monitoring programme is in place.

Article 73

Contaminated areas

1. Member States shall ensure that optimised protection strategies for managing contaminated areas shall include, where applicable, the following:

- (a) objectives, including long-term goals pursued by the strategy and corresponding reference levels, in accordance with Article 7;
- (b) delineation of the affected areas and identification of the affected members of the public;
- (c) consideration of the need for and extent of protective measures to be applied to the affected areas and members of the public;
- (d) consideration of the need to prevent or control access to the affected areas, or to impose restrictions on living conditions in these areas;
- (e) assessment of the exposure of different groups in the population and assessment of the means available to individuals for controlling their own exposure.

2. For areas with long-lasting residual contamination in which the Member State has decided to allow habitation and the resumption of social and economic activities, Member States shall ensure, in consultation with stakeholders, that arrangements are in place, as necessary, for the ongoing control of exposure with the aim of establishing living conditions that can be considered as normal, including:

- (a) establishment of appropriate reference levels;
- (b) establishment of an infrastructure to support continuing self-help protective measures in the affected areas, such as information provision, advice and monitoring;

(c) if appropriate, remediation measures;

(d) if appropriate, delineated areas.

Article 74

Indoor exposure to radon

1. Member States shall establish national reference levels for indoor radon concentrations. The reference levels for the annual average activity concentration in air shall not be higher than 300 Bq m⁻³.

2. Under the national action plan referred to in Article 103, Member States shall promote action to identify dwellings, with radon concentrations (as an annual average) exceeding the reference level and encourage, where appropriate by technical or other means, radon concentration-reducing measures in these dwellings.

3. Member States shall ensure that local and national information is made available on indoor radon exposure and the associated health risks, on the importance of performing radon measurements and on the technical means available for reducing existing radon concentrations.

Article 75

Gamma radiation from building materials

1. The reference level applying to indoor external exposure to gamma radiation emitted by building materials, in addition to outdoor external exposure, shall be 1 mSv per year.

2. For building materials which are identified by the Member State as being of concern from a radiation protection point of view, taking into account the indicative list of materials set out in Annex XIII with regard to their emitted gamma radiation, Member States shall ensure that, before such materials are placed on the market:

(a) the activity concentrations of the radionuclides specified in Annex VIII are determined, and that,

(b) information to the competent authority on the results of measurements and the corresponding activity concentration index, as well as other relevant factors, as defined in Annex VIII, are provided if requested.

3. For types of building materials identified in accordance with paragraph 2 which are liable to give doses exceeding the reference level, Member States shall decide on appropriate measures, which may include specific requirements in relevant building codes or restrictions on the envisaged use of such materials.

CHAPTER IX

GENERAL RESPONSIBILITIES OF MEMBER STATES AND COMPETENT AUTHORITIES AND OTHER REQUIREMENTS FOR REGULATORY CONTROL

SECTION 1

Institutional infrastructure

Article 76

Competent authority

1. Member States shall designate a competent authority to carry out tasks in accordance with this Directive. They shall ensure that the competent authority:

(a) is functionally separate from any other body or organisation concerned with the promotion or utilisation of practices under this Directive, in order to ensure effective independence from undue influence on its regulatory function;

(b) is given the legal powers and human and financial resources necessary to fulfil its obligations.

2. Where a Member State has more than one competent authority for a given area of competence, it shall designate one point of contact for communication with the competent authorities of other Member States. Where it is not reasonably practicable to list all such points of contact for different areas of competence, Member States may designate a single point of contact.

3. Member States shall forward to the Commission the name and address of the points of contact and their respective areas of competence to enable rapid communication, where appropriate, with their authorities.

4. Member States shall forward to the Commission any changes to the information referred to in paragraph 3.

5. The Commission shall communicate the information referred to in paragraphs 3 and 4 to all points of contact in a Member State and shall publish it periodically in the *Official Journal of the European Union*, at intervals of no more than two years.

Article 77

Transparency

Member States shall ensure that information in relation to the justification of classes or types of practices, the regulation of radiation sources and of radiation protection is made available to undertakings, workers, members of the public, as well as patients and other individuals subject to medical exposure. This obligation includes ensuring that the competent authority provides information within its fields of competence. Information shall be made available in accordance with national legislation and international obligations, provided that this does not jeopardise other interests such as, inter alia, security, recognised in national legislation or international obligations.

*Article 78***Information on equipment**

1. Member States shall ensure that any undertaking acquiring equipment containing radioactive sources or a radiation generator is provided with adequate information about its potential radiological hazards and its proper use, testing and maintenance, and with a demonstration that the design permits to restrict exposures to a level which is as low as reasonably achievable.

2. Member States shall ensure that any undertaking acquiring medical radiological equipment is provided with adequate information on the risk assessment for patients, and on the available elements of the clinical evaluation.

*Article 79***Recognition of services and experts**

1. Member States shall ensure that arrangements are in place for the recognition of:

- (a) occupational health services;
- (b) dosimetry services;
- (c) radiation protection experts;
- (d) medical physics experts.

Member States shall ensure that the necessary arrangements are in place to ensure the continuity of expertise of these services and experts.

If appropriate, Member States may establish the arrangements for the recognition of radiation protection officers.

2. Member States shall specify the recognition requirements and communicate them to the Commission.

3. The Commission shall make the information received in accordance with paragraph 2 available to the Member States.

*Article 80***Occupational health services**

Member State shall ensure that occupational health services perform medical surveillance of exposed workers, in accordance with Chapter VI, with regard to their exposure to ionising radiation and their fitness for the tasks assigned to them involving work with ionising radiation.

*Article 81***Dosimetry services**

Member State shall ensure that dosimetry services determine internal or external doses to exposed workers subject to individual monitoring, in order to record the dose in cooperation

with the undertaking and in the case of outside workers, the employer, and where relevant the occupational health service.

*Article 82***Radiation protection expert**

1. Member State shall ensure that the radiation protection expert gives competent advice to the undertaking on matters relating to compliance with applicable legal requirements, in respect of occupational and public exposure.

2. The advice of the radiation protection expert shall cover, where relevant, but not be limited to, the following:

- (a) optimisation and establishment of appropriate dose constraints;
- (b) plans for new installations and the acceptance into service of new or modified radiation sources in relation to any engineering controls, design features, safety features and warning devices relevant to radiation protection;
- (c) categorisation of controlled and supervised areas;
- (d) classification of workers;
- (e) workplace and individual monitoring programmes and related personal dosimetry;
- (f) appropriate radiation monitoring instrumentation;
- (g) quality assurance;
- (h) environmental monitoring programme;
- (i) arrangements for radioactive waste management;
- (j) arrangements for prevention of accidents and incidents;
- (k) preparedness and response in emergency exposure situations;
- (l) training and retraining programmes for exposed workers;
- (m) investigation and analysis of accidents and incidents and appropriate remedial actions;
- (n) employment conditions for pregnant and breastfeeding workers;
- (o) preparation of appropriate documentation such as prior risk assessments and written procedures;

3. The radiation protection expert shall, where appropriate, liaise with the medical physics expert.

4. The radiation protection expert may be assigned, if provided for in national legislation, the tasks of radiation protection of workers and members of the public.

Article 83

Medical physics expert

1. Member States shall require the medical physics expert to act or give specialist advice, as appropriate, on matters relating to radiation physics for implementing the requirements set out in Chapter VII and in point (c) of Article 22(4) of this Directive.

2. Member States shall ensure that depending on the medical radiological practice, the medical physics expert takes responsibility for dosimetry, including physical measurements for evaluation of the dose delivered to the patient and other individuals subject to medical exposure, give advice on medical radiological equipment, and contribute in particular to the following:

- (a) optimisation of the radiation protection of patients and other individuals subject to medical exposure, including the application and use of diagnostic reference levels;
- (b) the definition and performance of quality assurance of the medical radiological equipment;
- (c) acceptance testing of medical radiological equipment;
- (d) the preparation of technical specifications for medical radiological equipment and installation design;
- (e) the surveillance of the medical radiological installations;
- (f) the analysis of events involving, or potentially involving, accidental or unintended medical exposures;
- (g) the selection of equipment required to perform radiation protection measurements;
- (h) the training of practitioners and other staff in relevant aspects of radiation protection;

3. The medical physics expert shall, where appropriate, liaise with the radiation protection expert.

Article 84

Radiation protection officer

1. Member States shall decide in which practices the designation of a radiation protection officer is necessary to supervise

or to perform radiation protection tasks within an undertaking. Member States shall require undertakings to provide the radiation protection officers with the means necessary for them to carry out their tasks. The radiation protection officer shall report directly to the undertaking. Member States may require employers of outside workers to designate a radiation protection officer as necessary to supervise or perform relevant radiation protection tasks as they relate to the protection of their workers.

2. Depending on the nature of the practice, the tasks of the radiation protection officer in assisting the undertaking, may include the following:

- (a) ensuring that work with radiation is carried out in accordance with the requirements of any specified procedures or local rules;
- (b) supervise implementation of the programme for workplace monitoring;
- (c) maintaining adequate records of all radiation sources;
- (d) carrying out periodic assessments of the condition of the relevant safety and warning systems;
- (e) supervise implementation of the personal monitoring programme;
- (f) supervise implementation of the health surveillance programme;
- (g) providing new workers with an appropriate introduction to local rules and procedures;
- (h) giving advice and comments on work plans;
- (i) establishing work plans;
- (j) providing reports to the local management;
- (k) participating in the arrangements for prevention, preparedness and response for emergency exposure situations;
- (l) information and training of exposed workers;
- (m) liaising with the radiation protection expert.

3. The task of the radiation protection officer may be carried out by a radiation protection unit established within an undertaking or by a radiation protection expert.

SECTION 2

Control of radioactive sources

Article 85

General requirements for unsealed sources

1. Member States shall ensure that arrangements are made for keeping control of unsealed sources with regard to their location, use and, when no longer required, their recycling or disposal.
2. Member States shall require the undertaking, as appropriate and to the extent possible, to keep records of unsealed sources under its responsibility, including location, transfer and disposal or discharge.
3. Member States shall require each undertaking holding an unsealed radioactive source to notify the competent authority promptly of any loss, theft, significant spill, or unauthorised use or release.

Article 86

General requirements for sealed sources

1. Member States shall ensure that arrangements are made for keeping control of sealed sources with regard to their location, use and, when no longer required, their recycling or disposal.
2. Member States shall require the undertaking to keep records of all sealed sources under its responsibility, including location, transfer and disposal.
3. Member States shall establish a system to enable them to be adequately informed of any transfer of high activity sealed sources and where necessary individual transfers of sealed sources.
4. Member States shall require each undertaking holding a sealed source to notify the competent authority promptly of any loss, significant leakage, theft or unauthorised use of a sealed source.

Article 87

Requirements for control of high-activity sealed sources

Member States shall ensure that, before issuing authorisation for practices involving a high-activity sealed source:

- (a) adequate arrangements have been made for the safe management and control of sources, including when they become disused sources. Such arrangements may provide for the transfer of disused sources to the supplier or their placement in a disposal or storage facility or an obligation for the manufacturer or the supplier to receive them;
- (b) adequate provision, by way of a financial security or any other equivalent means appropriate for the source in

question, has been made for the safe management of sources when they become disused sources, including the case where the undertaking becomes insolvent or ceases its activities.

Article 88

Specific requirements for licensing of high-activity sealed sources

In addition to the general licensing requirements set out in Chapter V, Member States shall ensure that the licence for a practice involving a high-activity sealed source includes, but does not have to be limited to:

- (a) responsibilities;
- (b) minimum staff competencies, including information and training;
- (c) minimum performance criteria for the source, source container and additional equipment;
- (d) requirements for emergency procedures and communication links;
- (e) work procedures to be followed;
- (f) maintenance of equipment, sources and containers;
- (g) adequate management of disused sources, including agreements regarding the transfer, if appropriate, of disused sources to a manufacturer, a supplier, another authorised undertaking or a waste disposal or storage facility.

Article 89

Record keeping by the undertaking

Member States shall require that the records for high-activity sealed sources include the information set out in Annex XIV and that the undertaking provides the competent authority with an electronic or written copy of all or part of these records upon request and at least under the following conditions:

- (a) without undue delay, at the time of the establishment of such records, which shall be as soon as is reasonably practicable after the source is acquired;
- (b) at intervals to be determined by Member States;
- (c) if the situation indicated on the information sheet has changed;
- (d) without undue delay upon the closure of the records for a specific source when the undertaking no longer holds this source, whereby the name of the undertaking or waste disposal or storage facility to which the source is transferred shall be included;

- (e) without undue delay upon the closure of such records when the undertaking no longer holds any sources.

The undertaking's records shall be available for inspection by the competent authority.

Article 90

Record keeping by the competent authority

Member States shall ensure that the competent authority keeps records of any undertaking authorised to perform practices with high-activity sealed sources and of the high-activity sealed sources held. These records shall include the radionuclide involved, the activity at the time of manufacture or, if this activity is not known, the activity at the time of the first placing on the market or at the time the undertaking acquired the source, and the type of source. The competent authority shall keep the records up to date, taking transfers of the sources and other factors into account.

Article 91

Control of high-activity sealed sources

1. Member States shall require that the undertaking carrying out activities involving high activity sealed sources complies with requirements set out in Annex XV.
2. Member States shall require that the manufacturer, the supplier, and each undertaking ensures that high-activity sealed sources and containers comply with the requirements for identification and marking as set out in Annex XVI.

SECTION 3

Orphan sources

Article 92

Detection of orphan sources

1. Member States shall ensure that arrangements are made for:
 - (a) raising general awareness of the possible occurrence of orphan sources and associated hazards; and
 - (b) issuing guidance for persons who suspect or have knowledge of the presence of an orphan source on informing the competent authority and on the actions to be taken.
2. Member States shall encourage the establishment of systems aimed at detecting orphan sources in places such as large metal scrap yards and major metal scrap recycling installations where orphan sources may generally be encountered, or at significant nodal transit points, wherever appropriate.
3. Member States shall ensure that specialised technical advice and assistance is promptly made available to persons who suspect the presence of an orphan source and who are

not normally involved in operations subject to radiation protection requirements. The primary aim of advice and assistance shall be the protection of workers and members of the public from radiation and the safety of the source.

Article 93

Metal contamination

1. Member States shall encourage the establishment of systems to detect the presence of radioactive contamination in metal products imported from third countries, in places such as at major metal importing installations or at significant nodal transit points.
2. Member States shall require that the management of a metal scrap recycling installation promptly informs the competent authority if it suspects or has knowledge of any melting of or other metallurgical operation on an orphan source and shall require that the contaminated materials are not used, placed on the market or disposed of without the involvement of the competent authority.

Article 94

Recovery, management, control and disposal of orphan sources

1. Member States shall ensure that the competent authority is prepared, or has made provision, including assignment of responsibilities, to control and recover orphan sources and to deal with emergencies due to orphan sources and have drawn up appropriate response plans and measures.
2. Member States shall ensure that campaigns are organised, as appropriate, to recover orphan sources left behind from past practices.

The campaigns may include the financial participation of Member States in the costs of recovering, managing, controlling and disposing of the sources and may also include surveys of historical records of authorities and of undertakings, such as research institutes, material testing institutes or hospitals.

Article 95

Financial security for orphan sources

Member States shall ensure that a financial security system or other equivalent means is established to cover intervention costs relating to the recovery of orphan sources and which may result from implementation of Article 94.

SECTION 4

Significant events

Article 96

Notification and recording of significant events

Member States shall require the undertaking to:

- (a) implement, as appropriate, a recording and analysis system of significant events involving or potentially involving accidental or unintended exposures;

(b) promptly notify the competent authority of the occurrence of any significant event resulting or liable to result in the exposure of an individual beyond the operational limits or conditions of operation specified in authorising requirements with regard to occupational or public exposure or as defined by the competent authority for medical exposure, including the results of the investigation and the corrective measures to avoid such events.

SECTION 5

Emergency exposure situations

Article 97

Emergency management system

1. Member States shall ensure that account is taken of the fact that emergencies may occur on their territory and that they may be affected by emergencies occurring outside their territory. Member States shall establish an emergency management system and adequate administrative provisions to maintain such a system. The emergency management system shall include the elements listed in Section A of Annex XI.

2. The emergency management system shall be designed to be commensurate with the results of an assessment of potential emergency exposure situations and to be able to respond effectively to emergency exposure situations in connection with practices or unforeseen events.

3. The emergency management system shall provide for the establishment of emergency response plans with the objective of avoiding tissue reactions leading to severe deterministic effects in any individual from the affected population and reducing the risk of stochastic effects, taking account of the general principles of radiation protection and the reference levels referred to in Chapter III.

Article 98

Emergency preparedness

1. Member States shall ensure that emergency response plans are established in advance for the various types of emergencies identified by an assessment of potential emergency exposure situations.

2. The emergency response plans shall include the elements defined in Section B of Annex XI.

3. The emergency response plans shall also include provision for the transition from an emergency exposure situation to an existing exposure situation.

4. Member States shall ensure that emergency response plans are tested, reviewed and, as appropriate, revised at regular intervals, taking into account lessons learned from past emergency exposure situations and taking into account the results of the participation in emergency exercises at national and international level.

5. The emergency response plans shall, where appropriate, incorporate relevant elements of the emergency management system referred to in Article 97.

Article 99

International cooperation

1. Member States shall cooperate with other Member States and with third countries in addressing possible emergencies on its territory which may affect other Member States or third countries, in order to facilitate the organisation of radiological protection in those Member States or third countries.

2. Each Member State shall, in the event of an emergency occurring on its territory or likely to have radiological consequences on its territory, promptly establish contact with all other Member States and with third countries which may be involved or are likely to be affected with a view to sharing the assessment of the exposure situation and coordinating protective measures and public information by using, as appropriate, bilateral or international information exchange and coordination systems. These coordination activities shall not prevent or delay any necessary actions to be taken on a national level.

3. Each Member State shall promptly share information and cooperate with other relevant Member States, relevant third countries and relevant international organisations regarding the loss, theft or discovery of high-activity sealed sources, other radioactive sources and radioactive material of concern and regarding related follow-up or investigations, without prejudice to relevant confidentiality requirements and relevant national legislation.

4. Each Member State shall, where appropriate, cooperate with other Member States and with third countries in the transition from an emergency exposure situation to an existing exposure situation.

SECTION 6

Existing exposure situations

Article 100

Programmes on existing exposure situations

1. Member States shall ensure that measures are taken, upon indication or evidence of exposures that cannot be disregarded from a radiation protection point of view, to identify and evaluate existing exposure situations taking into account the types of existing exposure situations listed in Annex XVII, and to determine the corresponding occupational and public exposures.

2. Member States may decide, having regard to the general principle of justification, that an existing exposure situation warrants no consideration of protective or remedial measures.

3. Existing exposure situations which are of concern from a radiation protection point of view and for which legal responsibility can be assigned shall be subject to the relevant requirements for planned exposure situations and accordingly such exposure situations shall be required to be notified as specified in Article 25(2).

Article 101

Establishment of strategies

1. Member States shall arrange for the establishment of strategies to ensure the appropriate management of existing exposure situations commensurate with the risks and with the effectiveness of protective measures.

2. Each strategy shall contain

- (a) the objectives pursued;
- (b) appropriate reference levels, taking into account the reference levels laid down in Annex I.

Article 102

Implementation of strategies

1. Member States shall assign responsibilities for the implementation of strategies for the management of existing exposure situations, and ensure appropriate coordination between relevant parties involved in the implementation of remedial and protective measures. Member States shall provide as appropriate for the involvement of stakeholders in decisions regarding the development and implementation of strategies for managing exposure situations.

2. The form, scale and duration of all protective measures considered for implementation of a strategy shall be optimised.

3. The distribution of doses that has resulted from the implementation of a strategy shall be assessed. Further efforts shall be considered with the aim of optimising protection and reducing any exposures that are still above the reference level.

4. Member States shall ensure that those responsible for the implementation of a strategy shall regularly:

- (a) evaluate the available remedial and protective measures for achieving the objectives and the efficiency of planned and implemented measures;
- (b) provide information to exposed populations on the potential health risks and on the available means for reducing their exposure;

(c) provide guidance for the management of exposures at individual or local level;

(d) with regard to activities that involve naturally occurring radioactive material and are not managed as planned exposure situations, provide information on appropriate means for monitoring concentrations and exposures and for taking protective measures.

Article 103

Radon action plan

1. In application of Article 100(1), Member States shall establish a national action plan addressing long-term risks from radon exposures in dwellings, buildings with public access and workplaces for any source of radon ingress, whether from soil, building materials or water. The action plan shall take into account the issues set out in Annex XVIII and be updated on a regular basis.

2. Member States shall ensure that appropriate measures are in place to prevent radon ingress into new buildings. These measures may include specific requirements in national building codes.

3. Member States shall identify areas where the radon concentration (as an annual average) in a significant number of buildings is expected to exceed the relevant national reference level.

SECTION 7

System of enforcement

Article 104

Inspections

1. Member States shall establish a system or systems of inspection to enforce the provisions adopted pursuant to this Directive and to initiate surveillance and corrective action where necessary.

2. Member States shall ensure that the competent authority establishes an inspection programme taking into account the potential magnitude and nature of the hazard associated with practices, a general assessment of radiation protection issues in the practices, and the state of compliance with the provisions adopted pursuant to this Directive.

3. Member States shall ensure that the findings from each inspection are recorded and communicated to the undertaking concerned. If the findings are related to an outside worker or workers, where appropriate, the findings shall also be communicated to the employer.

4. Member States shall ensure that outlines of the inspection programmes and the main findings from their implementation are available to the public.

5. Member States shall ensure that mechanisms are in place for the timely dissemination to relevant parties, including manufacturers and suppliers of radiation sources and, where appropriate, international organisations, of protection and safety information concerning significant lessons learned from inspections and from reported incidents and accidents and related findings.

Article 105

Enforcement

Member States shall ensure that the competent authority has the power to require any individual or legal person to take action to remedy deficiencies and prevent their recurrence or to withdraw, where appropriate, authorisation when the results of a regulatory inspection or another regulatory assessment indicate that the exposure situation is not in compliance with the provisions adopted pursuant to this Directive.

CHAPTER X

FINAL PROVISIONS

Article 106

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 6 February 2018.

2. When Member States adopt those provisions, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

3. Member States shall communicate to the Commission the text of the provisions of national law which they adopt in the field covered by this Directive.

Article 107

Repeal

Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom, and 2003/122/Euratom are repealed with effect from 6 February 2018.

References to the repealed Directives shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex XIX.

Article 108

Entry into force

The Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 109

Addressees

This Directive is addressed to the Member States.

Done at Brussels, 5 December 2013.

For the Council

The President

R. SINKEVIČIUS

ANNEX I

Reference levels for public exposure as referred to in Articles 7 and 101

1. Without prejudice to reference levels set for equivalent doses, reference levels expressed in effective doses shall be set in the range of 1 to 20 mSv per year for existing exposure situations and 20 to 100 mSv (acute or annual) for emergency exposure situations.
 2. In specific situations, a reference level below ranges referred to in point 1 may be considered, in particular:
 - (a) a reference level below 20 mSv may be set in an emergency exposure situation where appropriate protection can be provided without causing a disproportionate detriment from the corresponding countermeasures or an excessive cost;
 - (b) a reference level below 1 mSv per year may be set, where appropriate, in an existing exposure situation for specific source-related exposures or pathways of exposure.
 3. For the transition from an emergency exposure situation to an existing exposure situation, appropriate reference levels shall be set, in particular upon the termination of long-term countermeasures such as relocation.
 4. The reference levels set shall take account of the features of prevailing situations as well as societal criteria, which may include the following:
 - (a) for exposures below or equal to 1 mSv per year, general information on the level of exposure, without specific consideration of individual exposures;
 - (b) in the range up to or equal to 20 mSv per year, specific information to enable individuals to manage their own exposure, if possible;
 - (c) in the range up to or equal to 100 mSv per year, assessment of individual doses and specific information on radiation risks and on available actions to reduce exposures.
-

ANNEX II

Radiation and tissue weighting factors as referred to in points (25) and (33) of Article 4*A. Radiation weighting factors*

Radiation type	w_R
Photons	1
Electrons and muons	1
Protons and charged pions	2
Alpha particles, fission fragments, heavy ions	20
Neutrons, $E_n < 1$ MeV	$2,5 + 18,2 e^{-[\ln(E_n)]^2/6}$
Neutrons, $1 \text{ MeV} \leq E_n \leq 50 \text{ MeV}$	$5,0 + 17,0 e^{-[\ln(2 E_n)]^2/6}$
Neutrons, $E_n > 50 \text{ MeV}$	$2,5 + 3,25 e^{-[\ln(0,04 E_n)]^2/6}$

Note: All values relate to the radiation incident on the body or, for internal radiation sources, emitted from the incorporated radionuclide(s).

B. Tissue weighting factors

Tissue	w_T
Bone-marrow (red)	0,12
Colon	0,12
Lung	0,12
Stomach	0,12
Breast	0,12
Remainder tissues (*)	0,12
Gonads	0,08
Bladder	0,04
Oesophagus	0,04
Liver	0,04
Thyroid	0,04
Bone surface	0,01
Brain	0,01
Salivary glands	0,01
Skin	0,01

(*) The w_T for the remainder tissues (0,12) applies to the arithmetic mean dose of the 13 organs and tissues for each sex listed below. Remainder tissues: adrenals, extrathoracic (ET) region, gall bladder, heart, kidneys, lymphatic nodes, muscle, oral mucosa, pancreas, prostate (male), small intestine, spleen, thymus, uterus/cervix (female).

ANNEX III

Activity values defining high-activity sealed sources as referred to in point (43) of Article 4

For radionuclides not listed in the table below, the relevant activity is identical to the D-value defined in the IAEA publication Dangerous quantities of radioactive material (D-values), (EPR-D-VALUES 2006).

Radionuclide	Activity (TBq)
Am-241	6×10^{-2}
Am-241/Be-9 ⁽¹⁾	6×10^{-2}
Cf-252	2×10^{-2}
Cm-244	5×10^{-2}
Co-60	3×10^{-2}
Cs-137	1×10^{-1}
Gd-153	1×10^0
Ir-192	8×10^{-2}
Pm-147	4×10^1
Pu-238	6×10^{-2}
Pu-239/Be-9 ⁽¹⁾	6×10^{-2}
Ra-226	4×10^{-2}
Se-75	2×10^{-1}
Sr-90 (Y-90)	1×10^0
Tm-170	2×10^1
Yb-169	3×10^{-1}

⁽¹⁾ The activity given is that of the alpha-emitting radionuclide

ANNEX IV

Justification of new classes or types of practices involving consumer products as referred to in Article 20

- A. Any undertaking intending to manufacture or import into a Member State consumer products for which the intended use is likely to lead to a new class or type of practice, shall provide the competent authority of this Member State with all relevant information, as to the:
- (1) intended use of the product;
 - (2) technical characteristics of the product;
 - (3) in the case of products containing radioactive substances, information as to their means of fixation;
 - (4) dose rates at relevant distances for the use of the product, including dose rates at a distance of 0,1 m from any accessible surface;
 - (5) expected doses to regular users of the product.
- B. The competent authority shall examine that information and in particular assess whether:
- (1) the performance of the consumer product justifies its intended use;
 - (2) the design is adequate in order to minimise exposures in normal use and the likelihood and consequences of misuse or accidental exposures, or whether there should be conditions imposed on the technical and physical characteristics of the product;
 - (3) the product is adequately designed to meet the exemption criteria, and, where applicable, is of an approved type and does not necessitate specific precautions for disposal when no longer in use;
 - (4) the product is appropriately labelled and suitable documentation is provided to the consumer with instructions for proper use and disposal.
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ANNEX V

Indicative list of practices involving non-medical imaging exposure as referred to in Article 22

Practices using medical radiological equipment:

1. Radiological health assessment for employment purposes;
2. Radiological health assessment for immigration purposes;
3. Radiological health assessment for insurance purposes;
4. Radiological evaluation of the physical development of children and adolescents with a view to a career in sports, dancing, etc.;
5. Radiological age assessment;
6. Use of ionising radiation for the identification of concealed objects within the human body.

Practices not using medical radiological equipment:

1. Use of ionising radiation for detection of concealed objects on or attached to the human body;
 2. Use of ionising radiation for detection of concealed humans as part of cargo screening;
 3. Practices involving the use of ionising radiation for legal or security purposes.
-

ANNEX VI

List of industrial sectors involving naturally-occurring radioactive material as referred to in Article 23

When applying Article 23 the following list of industrial sectors involving naturally-occurring radioactive material, including research and relevant secondary processes, shall be taken into account:

- Extraction of rare earths from monazite
 - Production of thorium compounds and manufacture of thorium-containing products
 - Processing of niobium/tantalum ore
 - Oil and gas production
 - Geothermal energy production
 - TiO₂ pigment production
 - Thermal phosphorus production
 - Zircon and zirconium industry
 - Production of phosphate fertilisers
 - Cement production, maintenance of clinker ovens
 - Coal-fired power plants, maintenance of boilers
 - Phosphoric acid production,
 - Primary iron production,
 - Tin/lead/copper smelting,
 - Ground water filtration facilities,
 - Mining of ores other than uranium ore.
-

ANNEX VII

Exemption and clearance criteria as referred to in Articles 24, 26 and 30**1. Exemption**

Practices may be exempted from notification either directly, on the basis of compliance with exemption levels (activity values (in Bq) or activity concentration values (in kBq kg⁻¹)) laid down in section 2, or on the basis of higher values that, for specific applications, are established by the competent authority, satisfying the general exemption and clearance criteria set out in section 3. Practices subject to notification may be exempted from authorisation by law or general administrative act, or through an ad-hoc regulatory decision, on the basis of the information provided in conjunction with the notification of the practice and in line with general exemption criteria set out in section 3.

2. Exemption and clearance levels

- (a) The total activity values (in Bq) for exemption apply to the total activity involved in a practice and are laid down in column 3 of Table B for artificial radionuclides and for some naturally-occurring radionuclides used in consumer products. For other practices involving naturally-occurring radionuclides, such values are, in general, not applicable.
- (b) The exempt activity concentration values (in kBq kg⁻¹) for the materials involved in the practice are laid down in Table A, Part 1, for artificial radionuclides, and in Table A, Part 2, for naturally-occurring radionuclides. The values in Table A, Part 1, are given for individual radionuclides, where applicable, including short-lived radionuclides in equilibrium with the parent nuclide, as indicated. The values in Table A, Part 2, apply to all radionuclides in the decay chain of U-238 or Th-232, but for segments of the decay chain, which are not in equilibrium with the parent radionuclide, higher values may be applied.
- (c) The concentration values in Table A, Part 1, or in Table A, Part 2, also apply to the clearance of solid materials for reuse, recycling, conventional disposal or incineration. Higher values may be defined for specific materials or specific pathways, taking Community guidance into account, including, where appropriate, additional requirements, in terms of surface activity or monitoring requirements.
- (d) For mixtures of artificial radionuclides, the weighted sum of nuclide-specific activities or concentrations (for various radionuclides contained in the same matrix) divided by the corresponding exemption value shall be less than unity. Where appropriate, this condition can be verified on the basis of best estimates of the composition of the radionuclide mix. The values in Table A, Part 2, apply individually to each parent nuclide. Some elements in the decay chain, e.g. Po-210 or Pb-210, may warrant the use of higher values taking Community guidance into account.
- (e) The values in Table A, Part 2, may not be used to exempt the incorporation into building materials of residues from industries processing naturally-occurring radioactive material. For this purpose, compliance with the provisions of Article 75 shall be verified. The values laid down in Table B, column 3, apply to the total inventory of radioactive substances held by a person or undertaking as part of a specific practice at any point in time. However, the competent authority may apply these values to smaller entities or packages, for instance to exempt the transport or storage of exempted consumer products, if the general exemption criteria in section 3 are satisfied.

3. General exemption and clearance criteria

- (a) The general criteria for the exemption of practices from notification or authorisation or for the clearance of materials from authorised practices are as follows:
 - (i) the radiological risks to individuals caused by the practice are sufficiently low, as to be of no regulatory concern; and
 - (ii) the type of practice has been determined to be justified; and
 - (iii) the practice is inherently safe.
- (b) Practices involving small amounts of radioactive substances or low activity concentrations, comparable to the exemption values laid down in Table A or Table B are deemed to fulfil criterion (iii).

- (c) Practices involving amounts of radioactive substances or activity concentrations below the exemption values laid down in Table A, Part 1, or Table B, are deemed to comply with criterion (i) without further consideration. This is also the case for the values in Table A, Part 2, with the exception of the recycling of residues in building materials or the case of specific exposure pathways, for instance, drinking water.
- (d) In the case of moderate amounts of material, as specified by Member States for specific types of practice, the activity concentration values laid down in Table B, column 2, may be used instead of the values laid down in Table A, Part 1, for the purpose of exemption from authorisation.
- (e) For the purpose of exemption from notification or for the purpose of clearance, where amounts of radioactive substances or activity concentrations do not comply with the values laid down in Table A or Table B, an assessment shall be made in the light of the general criteria (i) to (iii) above. For compliance with the general criterion (i), it shall be demonstrated that workers should not be classified as exposed workers, and the following criteria for the exposure of members of the public are met in all feasible circumstances:

— For artificial radionuclides:

The effective dose expected to be incurred by a member of the public due to the exempted practice is of the order of 10 μ Sv or less in a year.

— For naturally-occurring radionuclides:

The dose increment, allowing for the prevailing background radiation from natural radiation sources, liable to be incurred by an individual due to the exempted practice is of the order of 1 mSv or less in a year. The assessment of doses to members of the public shall take into account not only pathways of exposure through airborne or liquid effluent, but also pathways resulting from the disposal or recycling of solid residues. Member States may specify dose criteria lower than 1 mSv per year for specific types of practices or specific pathways of exposure.

For the purpose of exemption from authorisation, less restrictive dose criteria may be applied.

TABLE A

Activity concentration values for exemption or clearance of materials which can be applied by default to any amount and to any type of solid material

TABLE A PART 1

Artificial radionuclides

Radionuclide	Activity concentration (kBq kg ⁻¹)	Radionuclide	Activity concentration (kBq kg ⁻¹)	Radionuclide	Activity concentration (kBq kg ⁻¹)
H-3	100	K-43	10	Mn-56	10
Be-7	10	Ca-45	100	Fe-52 (a)	10
C-14	1	Ca-47	10	Fe-55	1 000
F-18	10	Sc-46	0,1	Fe-59	1
Na-22	0,1	Sc-47	100	Co-55	10
Na-24	1	Sc-48	1	Co-56	0,1
Si-31	1 000	V-48	1	Co-57	1
P-32	1 000	Cr-51	100	Co-58	1
P-33	1 000	Mn-51	10	Co-58 m	10 000
S-35	100	Mn-52	1	Co-60	0,1
Cl-36	1	Mn-52 m	10	Co-60 m	1 000
Cl-38	10	Mn-53	100	Co-61	100
K-42	100	Mn-54	0,1	Co-62 m	10

Radionuclide	Activity concentration (kBq kg ⁻¹)	Radionuclide	Activity concentration (kBq kg ⁻¹)	Radionuclide	Activity concentration (kBq kg ⁻¹)
Ni-59	100	Mo-93	10	Te-129 m ^(a)	10
Ni-63	100	Mo-99 ^(a)	10	Te-131	100
Ni-65	10	Mo-101 ^(a)	10	Te-131 m ^(a)	10
Cu-64	100	Tc-96	1	Te-132 ^(a)	1
Zn-65	0,1	Tc-96 m	1 000	Te-133	10
Zn-69	1 000	Tc-97	10	Te-133 m	10
Zn-69 m ^(a)	10	Tc-97 m	100	Te-134	10
Ga-72	10	Tc-99	1	I-123	100
Ge-71	10 000	Tc-99 m	100	I-125	100
As-73	1 000	Ru-97	10	I-126	10
As-74	10	Ru-103 ^(a)	1	I-129	0,01
As-76	10	Ru-105 ^(a)	10	I-130	10
As-77	1 000	Ru-106 ^(a)	0,1	I-131	10
Se-75	1	Rh-103 m	10 000	I-132	10
Br-82	1	Rh-105	100	I-133	10
Rb-86	100	Pd-103 ^(a)	1 000	I-134	10
Sr-85	1	Pd-109 ^(a)	100	I-135	10
Sr-85 m	100	Ag-105	1	Cs-129	10
Sr-87 m	100	Ag-110 m ^(a)	0,1	Cs-131	1 000
Sr-89	1 000	Ag-111	100	Cs-132	10
Sr-90 ^(a)	1	Cd-109 ^(a)	1	Cs-134	0,1
Sr-91 ^(a)	10	Cd-115 ^(a)	10	Cs-134 m	1 000
Sr-92	10	Cd-115 m ^(a)	100	Cs-135	100
Y-90	1 000	In-111	10	Cs-136	1
Y-91	100	In-113 m	100	Cs-137 ^(a)	0,1
Y-91 m	100	In-114 m ^(a)	10	Cs-138	10
Y-92	100	In-115 m	100	Ba-131	10
Y-93	100	Sn-113 ^(a)	1	Ba-140	1
Zr-93	10	Sn-125	10	La-140	1
Zr-95 ^(a)	1	Sb-122	10	Ce-139	1
Zr-97 ^(a)	10	Sb-124	1	Ce-141	100
Nb-93 m	10	Sb-125 ^(a)	0,1	Ce-143	10
Nb-94	0,1	Te-123 m	1	Ce-144	10
Nb-95	1	Te-125 m	1 000	Pr-142	100
Nb-97 ^(a)	10	Te-127	1 000	Pr-143	1 000
Nb-98	10	Te-127 m ^(a)	10	Nd-147	100
Mo-90	10	Te-129	100	Nd-149	100

Radionuclide	Activity concentration (kBq kg ⁻¹)	Radionuclide	Activity concentration (kBq kg ⁻¹)	Radionuclide	Activity concentration (kBq kg ⁻¹)
Pm-147	1 000	Pt-197	1 000	Pu-235	100
Pm-149	1 000	Pt-197 m	100	Pu-236	1
Sm-151	1 000	Au-198	10	Pu-237	100
Sm-153	100	Au-199	100	Pu-238	0,1
Eu-152	0,1	Hg-197	100	Pu-239	0,1
Eu-152 m	100	Hg-197 m	100	Pu-240	0,1
Eu-154	0,1	Hg-203	10	Pu-241	10
Eu-155	1	Tl-200	10	Pu-242	0,1
Gd-153	10	Tl-201	100	Pu-243	1 000
Gd-159	100	Tl-202	10	Pu-244 ^(a)	0,1
Tb-160	1	Tl-204	1	Am-241	0,1
Dy-165	1 000	Pb-203	10	Am-242	1 000
Dy-166	100	Bi-206	1	Am-242 m ^(a)	0,1
Ho-166	100	Bi-207	0,1	Am-243 ^(a)	0,1
Er-169	1 000	Po-203	10	Cm-242	10
Er-171	100	Po-205	10	Cm-243	1
Tm-170	100	Po-207	10	Cm-244	1
Tm-171	1 000	At-211	1 000	Cm-245	0,1
Yb-175	100	Ra-225	10	Cm-246	0,1
Lu-177	100	Ra-227	100	Cm-247 ^(a)	0,1
Hf-181	1	Th-226	1 000	Cm-248	0,1
Ta-182	0,1	Th-229	0,1	Bk-249	100
W-181	10	Pa-230	10	Cf-246	1 000
W-185	1 000	Pa-233	10	Cf-248	1
W-187	10	U-230	10	Cf-249	0,1
Re-186	1 000	U-231 ^(a)	100	Cf-250	1
Re-188	100	U-232 ^(a)	0,1	Cf-251	0,1
Os-185	1	U-233	1	Cf-252	1
Os-191	100	U-236	10	Cf-253	100
Os-191 m	1 000	U-237	100	Cf-254	1
Os-193	100	U-239	100	Es-253	100
Ir-190	1	U-240 ^(a)	100	Es-254 ^(a)	0,1
Ir-192	1	Np-237 ^(a)	1	Es-254 m ^(a)	10
Ir-194	100	Np-239	100	Fm-254	10 000
Pt-191	10	Np-240	10	Fm-255	100
Pt-193 m	1 000	Pu-234	100		

(^e) Parent radionuclides, and their progeny whose dose contributions are taken into account in the dose calculation (thus requiring only the exemption level of the parent radionuclide to be considered), are listed in the following table.

Parent radionuclide	Progeny	Parent radionuclide	Progeny
Fe-52	Mn-52 m	Sn-113	In-113 m
Zn-69 m	Zn-69	Sb-125	Te-125 m
Sr-90	Y-90	Te-127 m	Te-127
Sr-91	Y-91 m	Te-129 m	Te-129
Zr-95	Nb-95	Te-131 m	Te-131
Zr-97	Nb-97 m, Nb-97	Te-132	I-132
Nb-97	Nb-97 m	Cs-137	Ba-137 m
Mo-99	Tc-99 m	Ce-144	Pr-144, Pr-144 m
Mo-101	Tc-101	U-232	Th-228, Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208
Ru-103	Rh-103 m	U-240	Np-240 m, Np-240
Ru-105	Rh-105 m	Np-237	Pa-233
Ru-106	Rh-106	Pu-244	U-240, Np-240 m, Np-240
Pd-103	Rh-103 m	Am-242 m	Np-238
Pd-109	Ag-109 m	Am-243	Np-239
Ag-110 m	Ag-110	Cm-247	Pu-243
Cd-109	Ag-109 m	Es-254	Bk-250
Cd-115	In-115 m	Es-254 m	Fm-254
Cd-115 m	In-115 m		
In-114 m	In-114		

For radionuclides not listed in Table A, Part 1 the competent authority shall assign appropriate values for the quantities and concentrations of activity per unit mass where the need arises. Values thus assigned shall be complementary to those in Table A, Part 1.

TABLE A PART 2

Naturally occurring radionuclides

Values for exemption or clearance for naturally occurring radionuclides in solid materials in secular equilibrium with their progeny:

Natural radionuclides from the U-238 series	1 kBq kg ⁻¹
Natural radionuclides from the Th-232 series	1 kBq kg ⁻¹
K-40	10 kBq kg ⁻¹

TABLE B

Total activity values for exemption (column 3) and exemption values for the activity concentration in moderate amounts of any type of material (column 2)

Radionuclide	Activity concentration (kBq kg ⁻¹)	Activity (Bq)	Radionuclide	Activity concentration (kBq kg ⁻¹)	Activity (Bq)
H-3	1 × 10 ⁶	1 × 10 ⁹	Ni-65	1 × 10 ¹	1 × 10 ⁶
Be-7	1 × 10 ³	1 × 10 ⁷	Cu-64	1 × 10 ²	1 × 10 ⁶
C-14	1 × 10 ⁴	1 × 10 ⁷	Zn-65	1 × 10 ¹	1 × 10 ⁶
O-15	1 × 10 ²	1 × 10 ⁹	Zn-69	1 × 10 ⁴	1 × 10 ⁶
F-18	1 × 10 ¹	1 × 10 ⁶	Zn-69 m	1 × 10 ²	1 × 10 ⁶
Na-22	1 × 10 ¹	1 × 10 ⁶	Ga-72	1 × 10 ¹	1 × 10 ⁵
Na-24	1 × 10 ¹	1 × 10 ⁵	Ge-71	1 × 10 ⁴	1 × 10 ⁸
Si-31	1 × 10 ³	1 × 10 ⁶	As-73	1 × 10 ³	1 × 10 ⁷
P-32	1 × 10 ³	1 × 10 ⁵	As-74	1 × 10 ¹	1 × 10 ⁶
P-33	1 × 10 ⁵	1 × 10 ⁸	As-76	1 × 10 ²	1 × 10 ⁵
S-35	1 × 10 ⁵	1 × 10 ⁸	As-77	1 × 10 ³	1 × 10 ⁶
Cl-36	1 × 10 ⁴	1 × 10 ⁶	Se-75	1 × 10 ²	1 × 10 ⁶
Cl-38	1 × 10 ¹	1 × 10 ⁵	Br-82	1 × 10 ¹	1 × 10 ⁶
Ar-37	1 × 10 ⁶	1 × 10 ⁸	Kr-74	1 × 10 ²	1 × 10 ⁹
Ar-41	1 × 10 ²	1 × 10 ⁹	Kr-76	1 × 10 ²	1 × 10 ⁹
K-40 (1)	1 × 10 ²	1 × 10 ⁶	Kr-77	1 × 10 ²	1 × 10 ⁹
K-42	1 × 10 ²	1 × 10 ⁶	Kr-79	1 × 10 ³	1 × 10 ⁵
K-43	1 × 10 ¹	1 × 10 ⁶	Kr-81	1 × 10 ⁴	1 × 10 ⁷
Ca-45	1 × 10 ⁴	1 × 10 ⁷	Kr-83 m	1 × 10 ⁵	1 × 10 ¹²
Ca-47	1 × 10 ¹	1 × 10 ⁶	Kr-85	1 × 10 ⁵	1 × 10 ⁴
Sc-46	1 × 10 ¹	1 × 10 ⁶	Kr-85 m	1 × 10 ³	1 × 10 ¹⁰
Sc-47	1 × 10 ²	1 × 10 ⁶	Kr-87	1 × 10 ²	1 × 10 ⁹
Sc-48	1 × 10 ¹	1 × 10 ⁵	Kr-88	1 × 10 ²	1 × 10 ⁹
V-48	1 × 10 ¹	1 × 10 ⁵	Rb-86	1 × 10 ²	1 × 10 ⁵
Cr-51	1 × 10 ³	1 × 10 ⁷	Sr-85	1 × 10 ²	1 × 10 ⁶
Mn-51	1 × 10 ¹	1 × 10 ⁵	Sr-85 m	1 × 10 ²	1 × 10 ⁷
Mn-52	1 × 10 ¹	1 × 10 ⁵	Sr-87 m	1 × 10 ²	1 × 10 ⁶
Mn-52 m	1 × 10 ¹	1 × 10 ⁵	Sr-89	1 × 10 ³	1 × 10 ⁶
Mn-53	1 × 10 ⁴	1 × 10 ⁹	Sr-90 (b)	1 × 10 ²	1 × 10 ⁴
Mn-54	1 × 10 ¹	1 × 10 ⁶	Sr-91	1 × 10 ¹	1 × 10 ⁵
Mn-56	1 × 10 ¹	1 × 10 ⁵	Sr-92	1 × 10 ¹	1 × 10 ⁶
Fe-52	1 × 10 ¹	1 × 10 ⁶	Y-90	1 × 10 ³	1 × 10 ⁵
Fe-55	1 × 10 ⁴	1 × 10 ⁶	Y-91	1 × 10 ³	1 × 10 ⁶
Fe-59	1 × 10 ¹	1 × 10 ⁶	Y-91 m	1 × 10 ²	1 × 10 ⁶
Co-55	1 × 10 ¹	1 × 10 ⁶	Y-92	1 × 10 ²	1 × 10 ⁵
Co-56	1 × 10 ¹	1 × 10 ⁵	Y-93	1 × 10 ²	1 × 10 ⁵
Co-57	1 × 10 ²	1 × 10 ⁶	Zr-93 (b)	1 × 10 ³	1 × 10 ⁷
Co-58	1 × 10 ¹	1 × 10 ⁶	Zr-95	1 × 10 ¹	1 × 10 ⁶
Co-58 m	1 × 10 ⁴	1 × 10 ⁷	Zr-97 (b)	1 × 10 ¹	1 × 10 ⁵
Co-60	1 × 10 ¹	1 × 10 ⁵	Nb-93 m	1 × 10 ⁴	1 × 10 ⁷
Co-60 m	1 × 10 ³	1 × 10 ⁶	Nb-94	1 × 10 ¹	1 × 10 ⁶
Co-61	1 × 10 ²	1 × 10 ⁶	Nb-95	1 × 10 ¹	1 × 10 ⁶
Co-62 m	1 × 10 ¹	1 × 10 ⁵	Nb-97	1 × 10 ¹	1 × 10 ⁶
Ni-59	1 × 10 ⁴	1 × 10 ⁸	Nb-98	1 × 10 ¹	1 × 10 ⁵
Ni-63	1 × 10 ⁵	1 × 10 ⁸	Mo-90	1 × 10 ¹	1 × 10 ⁶

Radionuclide	Activity concentration (kBq kg ⁻¹)	Activity (Bq)	Radionuclide	Activity concentration (kBq kg ⁻¹)	Activity (Bq)
Mo-93	1 × 10 ³	1 × 10 ⁸	I-129	1 × 10 ²	1 × 10 ⁵
Mo-99	1 × 10 ²	1 × 10 ⁶	I-130	1 × 10 ¹	1 × 10 ⁶
Mo-101	1 × 10 ¹	1 × 10 ⁶	I-131	1 × 10 ²	1 × 10 ⁶
Tc-96	1 × 10 ¹	1 × 10 ⁶	I-132	1 × 10 ¹	1 × 10 ⁵
Tc-96 m	1 × 10 ³	1 × 10 ⁷	I-133	1 × 10 ¹	1 × 10 ⁶
Tc-97	1 × 10 ³	1 × 10 ⁸	I-134	1 × 10 ¹	1 × 10 ⁵
Tc-97 m	1 × 10 ³	1 × 10 ⁷	I-135	1 × 10 ¹	1 × 10 ⁶
Tc-99	1 × 10 ⁴	1 × 10 ⁷	Xe-131 m	1 × 10 ⁴	1 × 10 ⁴
Tc-99 m	1 × 10 ²	1 × 10 ⁷	Xe-133	1 × 10 ³	1 × 10 ⁴
Ru-97	1 × 10 ²	1 × 10 ⁷	Xe-135	1 × 10 ³	1 × 10 ¹⁰
Ru-103	1 × 10 ²	1 × 10 ⁶	Cs-129	1 × 10 ²	1 × 10 ⁵
Ru-105	1 × 10 ¹	1 × 10 ⁶	Cs-131	1 × 10 ³	1 × 10 ⁶
Ru-106 ^(b)	1 × 10 ²	1 × 10 ⁵	Cs-132	1 × 10 ¹	1 × 10 ⁵
Rh-103 m	1 × 10 ⁴	1 × 10 ⁸	Cs-134 m	1 × 10 ³	1 × 10 ⁵
Rh-105	1 × 10 ²	1 × 10 ⁷	Cs-134	1 × 10 ¹	1 × 10 ⁴
Pd-103	1 × 10 ³	1 × 10 ⁸	Cs-135	1 × 10 ⁴	1 × 10 ⁷
Pd-109	1 × 10 ³	1 × 10 ⁶	Cs-136	1 × 10 ¹	1 × 10 ⁵
Ag-105	1 × 10 ²	1 × 10 ⁶	Cs-137 ^(b)	1 × 10 ¹	1 × 10 ⁴
Ag-108 m	1 × 10 ¹	1 × 10 ⁶	Cs-138	1 × 10 ¹	1 × 10 ⁴
Ag-110 m	1 × 10 ¹	1 × 10 ⁶	Ba-131	1 × 10 ²	1 × 10 ⁶
Ag-111	1 × 10 ³	1 × 10 ⁶	Ba-140 ^(b)	1 × 10 ¹	1 × 10 ⁵
Cd-109	1 × 10 ⁴	1 × 10 ⁶	La-140	1 × 10 ¹	1 × 10 ⁵
Cd-115	1 × 10 ²	1 × 10 ⁶	Ce-139	1 × 10 ²	1 × 10 ⁶
Cd-115 m	1 × 10 ³	1 × 10 ⁶	Ce-141	1 × 10 ²	1 × 10 ⁷
In-111	1 × 10 ²	1 × 10 ⁶	Ce-143	1 × 10 ²	1 × 10 ⁶
In-113 m	1 × 10 ²	1 × 10 ⁶	Ce-144 ^(b)	1 × 10 ²	1 × 10 ⁵
In-114 m	1 × 10 ²	1 × 10 ⁶	Pr-142	1 × 10 ²	1 × 10 ⁵
In-115 m	1 × 10 ²	1 × 10 ⁶	Pr-143	1 × 10 ⁴	1 × 10 ⁶
Sn-113	1 × 10 ³	1 × 10 ⁷	Nd-147	1 × 10 ²	1 × 10 ⁶
Sn-125	1 × 10 ²	1 × 10 ⁵	Nd-149	1 × 10 ²	1 × 10 ⁶
Sb-122	1 × 10 ²	1 × 10 ⁴	Pm-147	1 × 10 ⁴	1 × 10 ⁷
Sb-124	1 × 10 ¹	1 × 10 ⁶	Pm-149	1 × 10 ³	1 × 10 ⁶
Sb-125	1 × 10 ²	1 × 10 ⁶	Sm-151	1 × 10 ⁴	1 × 10 ⁸
Te-123 m	1 × 10 ²	1 × 10 ⁷	Sm-153	1 × 10 ²	1 × 10 ⁶
Te-125 m	1 × 10 ³	1 × 10 ⁷	Eu-152	1 × 10 ¹	1 × 10 ⁶
Te-127	1 × 10 ³	1 × 10 ⁶	Eu-152 m	1 × 10 ²	1 × 10 ⁶
Te-127 m	1 × 10 ³	1 × 10 ⁷	Eu-154	1 × 10 ¹	1 × 10 ⁶
Te-129	1 × 10 ²	1 × 10 ⁶	Eu-155	1 × 10 ²	1 × 10 ⁷
Te-129 m	1 × 10 ³	1 × 10 ⁶	Gd-153	1 × 10 ²	1 × 10 ⁷
Te-131	1 × 10 ²	1 × 10 ⁵	Gd-159	1 × 10 ³	1 × 10 ⁶
Te-131 m	1 × 10 ¹	1 × 10 ⁶	Tb-160	1 × 10 ¹	1 × 10 ⁶
Te-132	1 × 10 ²	1 × 10 ⁷	Dy-165	1 × 10 ³	1 × 10 ⁶
Te-133	1 × 10 ¹	1 × 10 ⁵	Dy-166	1 × 10 ³	1 × 10 ⁶
Te-133 m	1 × 10 ¹	1 × 10 ⁵	Ho-166	1 × 10 ³	1 × 10 ⁵
Te-134	1 × 10 ¹	1 × 10 ⁶	Er-169	1 × 10 ⁴	1 × 10 ⁷
I-123	1 × 10 ²	1 × 10 ⁷	Er-171	1 × 10 ²	1 × 10 ⁶
I-125	1 × 10 ³	1 × 10 ⁶	Tm-170	1 × 10 ³	1 × 10 ⁶
I-126	1 × 10 ²	1 × 10 ⁶	Tm-171	1 × 10 ⁴	1 × 10 ⁸

Radionuclide	Activity concentration (kBq kg ⁻¹)	Activity (Bq)	Radionuclide	Activity concentration (kBq kg ⁻¹)	Activity (Bq)
Yb-175	1 × 10 ³	1 × 10 ⁷	Ra-228 ^(b)	1 × 10 ¹	1 × 10 ⁵
Lu-177	1 × 10 ³	1 × 10 ⁷	Ac-228	1 × 10 ¹	1 × 10 ⁶
Hf-181	1 × 10 ¹	1 × 10 ⁶	Th-226 ^(b)	1 × 10 ³	1 × 10 ⁷
Ta-182	1 × 10 ¹	1 × 10 ⁴	Th-227	1 × 10 ¹	1 × 10 ⁴
W-181	1 × 10 ³	1 × 10 ⁷	Th-228 ^(b)	1 × 10 ⁰	1 × 10 ⁴
W-185	1 × 10 ⁴	1 × 10 ⁷	Th-229 ^(b)	1 × 10 ⁰	1 × 10 ³
W-187	1 × 10 ²	1 × 10 ⁶	Th-230	1 × 10 ⁰	1 × 10 ⁴
Re-186	1 × 10 ³	1 × 10 ⁶	Th-231	1 × 10 ³	1 × 10 ⁷
Re-188	1 × 10 ²	1 × 10 ⁵	Th-234 ^(b)	1 × 10 ³	1 × 10 ⁵
Os-185	1 × 10 ¹	1 × 10 ⁶	Pa-230	1 × 10 ¹	1 × 10 ⁶
Os-191	1 × 10 ²	1 × 10 ⁷	Pa-231	1 × 10 ⁰	1 × 10 ³
Os-191 m	1 × 10 ³	1 × 10 ⁷	Pa-233	1 × 10 ²	1 × 10 ⁷
Os-193	1 × 10 ²	1 × 10 ⁶	U-230	1 × 10 ¹	1 × 10 ⁵
Ir-190	1 × 10 ¹	1 × 10 ⁶	U-231	1 × 10 ²	1 × 10 ⁷
Ir-192	1 × 10 ¹	1 × 10 ⁴	U-232 ^(b)	1 × 10 ⁰	1 × 10 ³
Ir-194	1 × 10 ²	1 × 10 ⁵	U-233	1 × 10 ¹	1 × 10 ⁴
Pt-191	1 × 10 ²	1 × 10 ⁶	U-234	1 × 10 ¹	1 × 10 ⁴
Pt-193 m	1 × 10 ³	1 × 10 ⁷	U-235 ^(b)	1 × 10 ¹	1 × 10 ⁴
Pt-197	1 × 10 ³	1 × 10 ⁶	U-236	1 × 10 ¹	1 × 10 ⁴
Pt-197 m	1 × 10 ²	1 × 10 ⁶	U-237	1 × 10 ²	1 × 10 ⁶
Au-198	1 × 10 ²	1 × 10 ⁶	U-238 ^(b)	1 × 10 ¹	1 × 10 ⁴
Au-199	1 × 10 ²	1 × 10 ⁶	U-239	1 × 10 ²	1 × 10 ⁶
Hg-197	1 × 10 ²	1 × 10 ⁷	U-240	1 × 10 ³	1 × 10 ⁷
Hg-197 m	1 × 10 ²	1 × 10 ⁶	U-240 ^(b)	1 × 10 ¹	1 × 10 ⁶
Hg-203	1 × 10 ²	1 × 10 ⁵	Np-237 ^(b)	1 × 10 ⁰	1 × 10 ³
Tl-200	1 × 10 ¹	1 × 10 ⁶	Np-239	1 × 10 ²	1 × 10 ⁷
Tl-201	1 × 10 ²	1 × 10 ⁶	Np-240	1 × 10 ¹	1 × 10 ⁶
Tl-202	1 × 10 ²	1 × 10 ⁶	Pu-234	1 × 10 ²	1 × 10 ⁷
Tl-204	1 × 10 ⁴	1 × 10 ⁴	Pu-235	1 × 10 ²	1 × 10 ⁷
Pb-203	1 × 10 ²	1 × 10 ⁶	Pu-236	1 × 10 ¹	1 × 10 ⁴
Pb-210 ^(b)	1 × 10 ¹	1 × 10 ⁴	Pu-237	1 × 10 ³	1 × 10 ⁷
Pb-212 ^(b)	1 × 10 ¹	1 × 10 ⁵	Pu-238	1 × 10 ⁰	1 × 10 ⁴
Bi-206	1 × 10 ¹	1 × 10 ⁵	Pu-239	1 × 10 ⁰	1 × 10 ⁴
Bi-207	1 × 10 ¹	1 × 10 ⁶	Pu-240	1 × 10 ⁰	1 × 10 ³
Bi-210	1 × 10 ³	1 × 10 ⁶	Pu-241	1 × 10 ²	1 × 10 ⁵
Bi-212 ^(b)	1 × 10 ¹	1 × 10 ⁵	Pu-242	1 × 10 ⁰	1 × 10 ⁴
Po-203	1 × 10 ¹	1 × 10 ⁶	Pu-243	1 × 10 ³	1 × 10 ⁷
Po-205	1 × 10 ¹	1 × 10 ⁶	Pu-244	1 × 10 ⁰	1 × 10 ⁴
Po-207	1 × 10 ¹	1 × 10 ⁶	Am-241	1 × 10 ⁰	1 × 10 ⁴
Po-210	1 × 10 ¹	1 × 10 ⁴	Am-242	1 × 10 ³	1 × 10 ⁶
At-211	1 × 10 ³	1 × 10 ⁷	Am-242 m ^(b)	1 × 10 ⁰	1 × 10 ⁴
Rn-220 ^(b)	1 × 10 ⁴	1 × 10 ⁷	Am-243 ^(b)	1 × 10 ⁰	1 × 10 ³
Rn-222 ^(b)	1 × 10 ¹	1 × 10 ⁸	Cm-242	1 × 10 ²	1 × 10 ⁵
Ra-223 ^(b)	1 × 10 ²	1 × 10 ⁵	Cm-243	1 × 10 ⁰	1 × 10 ⁴
Ra-224 ^(b)	1 × 10 ¹	1 × 10 ⁵	Cm-244	1 × 10 ¹	1 × 10 ⁴
Ra-225	1 × 10 ²	1 × 10 ⁵	Cm-245	1 × 10 ⁰	1 × 10 ³
Ra-226 ^(b)	1 × 10 ¹	1 × 10 ⁴	Cm-246	1 × 10 ⁰	1 × 10 ³
Ra-227	1 × 10 ²	1 × 10 ⁶	Cm-247	1 × 10 ⁰	1 × 10 ⁴

Radionuclide	Activity concentration (kBq kg ⁻¹)	Activity (Bq)	Radionuclide	Activity concentration (kBq kg ⁻¹)	Activity (Bq)
Cm-248	1 × 10 ⁰	1 × 10 ³	Cf-253	1 × 10 ²	1 × 10 ⁵
Bk-249	1 × 10 ³	1 × 10 ⁶	Cf-254	1 × 10 ⁰	1 × 10 ³
Cf-246	1 × 10 ³	1 × 10 ⁶	Es-253	1 × 10 ²	1 × 10 ⁵
Cf-248	1 × 10 ¹	1 × 10 ⁴	Es-254	1 × 10 ¹	1 × 10 ⁴
Cf-249	1 × 10 ⁰	1 × 10 ³	Es-254 m	1 × 10 ²	1 × 10 ⁶
Cf-250	1 × 10 ¹	1 × 10 ⁴	Fm-254	1 × 10 ⁴	1 × 10 ⁷
Cf-251	1 × 10 ⁰	1 × 10 ³	Fm-255	1 × 10 ³	1 × 10 ⁶
Cf-252	1 × 10 ¹	1 × 10 ⁴			

(¹) Potassium salts in quantities less than 1 000 kg are exempted.

(²) Parent radionuclides, and their progeny whose dose contributions are taken into account in the dose calculation (thus requiring only the exemption level of the parent radionuclide to be considered), are listed in the following:

Parent radionuclide	Progeny
Sr-90	Y-90
Zr-93	Nb-93 m
Zr-97	Nb-97
Ru-106	Rh-106
Ag-108 m	Ag-108
Cs-137	Ba-137 m
Ba-140	La-140
Ce-144	Pr-144
Pb-210	Bi-210, Po-210
Pb-212	Bi-212, Tl-208 (0.36), Po-212 (0.64)
Bi-212	Tl-208 (0.36), Po-212 (0.64)
Rn-220	Po-216
Rn-222	Po-218, Pb-214, Bi-214, Po-214
Ra-223	Rn-219, Po-215, Pb-211, Bi-211, Tl-207
Ra-224	Rn-220, Po-216, Pb-212, Bi-212, Tl-208 (0.36), Po-212 (0.64)
Ra-226	Rn-222, Po-218, Pb-214, Bi-214, Po-214, Pb-210, Bi-210, Po-210
Ra-228	Ac-228
Th-226	Ra-222, Rn-218, Po-214
Th-228	Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208 (0.36), Po-212 (0.64)
Th-229	Ra-225, Ac-225, Fr-221, At-217, Bi-213, Po-213, Pb-209
Th-234	Pa-234 m
U-230	Th-226, Ra-222, Rn-218, Po-214
U-232	Th-228, Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208 (0.36), Po-212 (0.64)
U-235	Th-231
U-238	Th-234, Pa-234 m
U-240	Np-240 m
Np-237	Pa-233
Am-242 m	Am-242
Am-243	Np-239

ANNEX VIII

Definition and use of the activity concentration index for the gamma radiation emitted by building materials as referred to in Article 75

For the purposes of Article 75(2), for identified types of building materials, the activity concentrations of primordial radionuclides Ra-226, Th-232 (or its decay product Ra-228) and K-40 shall be determined.

The activity concentration index I is given by the following formula:

$$I = C_{\text{Ra226}}/300 \text{ Bq/kg} + C_{\text{Th232}}/200 \text{ Bq/kg} + C_{\text{K40}}/3\,000 \text{ Bq/kg}$$

where C_{Ra226} , C_{Th232} and C_{K40} are the activity concentrations in Bq/kg of the corresponding radionuclides in the building material.

The index relates to the gamma radiation dose, in excess of typical outdoor exposure, in a building constructed from a specified building material. The index applies to the building material, not to its constituents except when those constituents are building materials themselves and are separately assessed as such. For application of the index to such constituents, in particular residues from industries processing naturally-occurring radioactive material recycled into building materials, an appropriate partitioning factor needs to be applied. The activity concentration index value of 1 can be used as a conservative screening tool for identifying materials that may cause the reference level laid down in Article 75(1) to be exceeded. The calculation of dose needs to take into account other factors such as density, thickness of the material as well as factors relating to the type of building and the intended use of the material (bulk or superficial).

ANNEX IX

Indicative list of information for licence applications as referred to in Article 29

- (a) Responsibilities and organisational arrangements for protection and safety.
 - (b) Staff competences, including information and training.
 - (c) Design features of the facility and of radiation sources.
 - (d) Anticipated occupational and public exposures in normal operation.
 - (e) Safety assessment of the activities and the facility in order to:
 - (i) identify ways in which potential exposures or accidental and unintended medical exposures could occur;
 - (ii) estimate, to the extent practicable, the probabilities and magnitude of potential exposures;
 - (iii) assess the quality and extent of protection and safety provisions, including engineering features, as well as administrative procedures;
 - (iv) define the operational limits and conditions of operation.
 - (f) Emergency procedures.
 - (g) Maintenance, testing, inspection and servicing so as to ensure that the radiation source and the facility continue to meet the design requirements, operational limits and conditions of operation throughout their lifetime.
 - (h) Management of radioactive waste and arrangements for the disposal of such waste, in accordance with applicable regulatory requirements.
 - (i) Management of disused sources.
 - (j) Quality assurance.
-

ANNEX X

Data system for individual radiological monitoring as referred to in Articles 43, 44 and 51

GENERAL PROVISIONS

The data system for individual radiological monitoring established by a Member State may be realised either as a network or as a national dose register. This data system may include the issuance of individual radiological monitoring documents for outside workers.

1. Any data system of the Member States for individual radiological monitoring of exposed workers shall comprise the following sections:
 - (a) particulars concerning the worker's identity;
 - (b) particulars concerning the medical surveillance of the worker;
 - (c) particulars concerning the undertaking of the worker and, in the case of an outside worker, the employer of the worker;
 - (d) the results of the individual monitoring of the exposed worker.
2. The competent authorities of the Member States shall take the measures necessary to prevent any forgery or misuse of, or tampering with, the data system for individual radiological monitoring.

A. Data to be included in the data system for individual radiological monitoring

3. Data on the worker's identity shall include the worker's:
 - (a) surname;
 - (b) first name;
 - (c) sex;
 - (d) date of birth;
 - (e) nationality; and
 - (f) unique identification number.
4. Data on the undertaking shall include the name, address and unique identification number of the undertaking.
5. Data on the employment of the worker shall include:
 - (a) the name, address and unique identification number of the employer;
 - (b) the starting date of individual monitoring; and where available, the end date;
 - (c) the categorisation of the worker in accordance with Article 40.
6. The results of the individual monitoring of the exposed worker shall include the official dose record (year; effective dose in mSv; in the event of non-uniform exposure, equivalent doses in the different parts of the body in mSv; and in the event of an intake of radionuclides, the committed effective dose in mSv);

B. Data on outside workers to be supplied via the data system for individual radiological monitoring

1. Before the start of any activity, the employer of the outside worker shall supply the following data to the undertaking via the data system for individual radiological monitoring:
 - (a) data on the employment of the outside worker in accordance with Section A, point 5;

- (b) data on the medical surveillance of the worker shall include:
 - (i) the medical classification of the worker in accordance with Article 46 (fit; fit, subject to certain conditions; unfit);
 - (ii) information on any restrictions on working with radiation;
 - (iii) the date of the last periodic health review; and
 - (iv) the period of validity of the result.
 - (c) the results of the outside worker's individual exposure monitoring in accordance with Section A, point 6, and at least for the last five calendar years including the current year.
2. The following data shall be recorded or have been recorded by the undertaking in the data system for individual radiological monitoring after the end of any activity:
- (a) the period covered by the activity;
 - (b) an estimate of any effective dose received by the outside worker (for the period covered by the activity);
 - (c) in the event of non-uniform exposure, an estimate of the equivalent doses in the different parts of the body;
 - (d) in the event of an intake of radionuclides, an estimate of the intake or the committed effective dose.

C. Provisions concerning the individual radiological monitoring document

1. Member States may decide to issue an individual radiological monitoring document for every outside worker.
 2. The document shall be non-transferable.
 3. Member States shall take the measures necessary to prevent a worker from being issued with more than one valid individual monitoring document at the same time.
 4. In addition to the information required in Part A and Part B, the document shall include the name and address of the issuing body and the issuing date.
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ANNEX XI

Emergency management systems and emergency response plans as referred to in Articles 69, 97 and 98**A. Elements to be included in an emergency management system**

1. Assessment of potential emergency exposure situations and associated public and emergency occupational exposures;
2. Clear allocation of the responsibilities of persons and organisations having a role in preparedness and response arrangements;
3. Establishment of emergency response plans at appropriate levels and related to a specific facility or human activity;
4. Reliable communications and efficient and effective arrangements for cooperation and coordination at the installation and at appropriate national and international levels;
5. Health protection of emergency workers;
6. Arrangements for the provision of prior information and training for emergency workers and all other persons with duties or responsibilities in emergency response, including regular exercises;
7. Arrangements for individual monitoring or assessment of individual doses of emergency workers and the recording of doses;
8. Public information arrangements;
9. Involvement of stakeholders;
10. Transition from an emergency exposure situation to an existing exposure situation including recovery and remediation.

B. Elements to be included in an emergency response plan

For emergency preparedness:

1. Reference levels for public exposure, taking into account the criteria laid down in Annex I;
2. Reference levels for emergency occupational exposure taking into account Article 53.
3. Optimised protection strategies for members of the public who may be exposed, for different postulated events and related scenarios;
4. Predefined generic criteria for particular protective measures;
5. Default triggers or operational criteria such as observables and indicators of on-scene conditions;
6. Arrangements for prompt coordination between organisations having a role in emergency preparedness and response and with all other Member States and with third countries which may be involved or are likely to be affected;
7. Arrangements for the emergency response plan to be reviewed and revised to take account of changes or lessons learned from exercises and events.

Arrangements shall be established in advance to revise these elements, as appropriate during an emergency exposure situation, to accommodate the prevailing conditions as these evolve throughout the response.

For emergency response:

The response to an emergency exposure situation shall be undertaken through the timely implementation of preparedness arrangements, including but not limited to:

1. Promptly implementing protective measures, if possible, before any exposure occurs;

2. Assessing the effectiveness of strategies and implemented actions and adjusting them as appropriate to the prevailing situation;
 3. Comparing the doses against the applicable reference level, focusing on those groups whose doses exceed the reference level;
 4. Implementing further protection strategies, as necessary, based on prevailing conditions and available information.
-

ANNEX XII

Information to members of the public about health protection measures to be applied and steps to be taken in the event of an emergency as referred to in Articles 70 and 71**A. Prior information to the members of the public likely to be affected by an emergency**

1. Basic facts about radioactivity and its effects on human beings and on the environment;
2. The various types of emergency covered and their consequences for the public and the environment;
3. Emergency measures envisaged to alert, protect and assist the public in the event of an emergency;
4. Appropriate information on action to be taken by the public in the event of an emergency.

B. Information to be provided to the affected members of the public in the event of an emergency

1. On the basis of the emergency response plan previously drawn up in the Member States, the members of the public actually affected in the event of an emergency shall rapidly and regularly receive:
 - (a) information on the type of emergency which has occurred and, where possible, its characteristics (e.g. its origin, extent and probable development);
 - (b) advice on protection, which, depending on the type of emergency, may:
 - (i) cover the following: restrictions on the consumption of certain foodstuffs and water likely to be contaminated, simple rules on hygiene and decontamination, recommendations to stay indoors, distribution and use of protective substances, evacuation arrangements;
 - (ii) be accompanied, where necessary, by special warnings for certain groups of the members of the public;
 - (c) announcements recommending cooperation with instructions or requests by the competent authority.
 2. If the emergency is preceded by a pre-alarm phase, the members of the public likely to be affected shall already receive information and advice during that phase, such as:
 - (a) an invitation to the members of the public concerned to tune in to relevant communication channels;
 - (b) preparatory advice to establishments with particular collective responsibilities;
 - (c) recommendations to occupational groups particularly affected.
 3. This information and advice shall be supplemented, if time permits, by a reminder of the basic facts about radioactivity and its effects on human beings and on the environment.
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ANNEX XIII

Indicative list of types of building materials considered with regard to their emitted gamma radiation as referred to in Article 75

1. Natural materials

- (a) Alum-shale.
- (b) Building materials or additives of natural igneous origin, such as:
 - granitoides (such as granites, syenite and orthogneiss),
 - porphyries;
 - tuff;
 - pozzolana (pozzolanic ash);
 - lava.

2. Materials incorporating residues from industries processing naturally-occurring radioactive material, such as:

- fly ash;
 - phosphogypsum;
 - phosphorus slag;
 - tin slag;
 - copper slag;
 - red mud (residue from aluminium production);
 - residues from steel production
-

Information to be provided in the records for high-activity sealed sources (HASS) as referred to in Article 89

STANDARD RECORD SHEET FOR HIGH-ACTIVITY SEALED SOURCES (HASS) <i>(optional in italics)</i>		
1. HASS identification number	2. Identification of the licenced undertaking	3. Location of HASS (Use or storage) if not the same as in 2.
<i>Manufacturer device number</i>	Name: Address: Country: Manufacturer <input type="checkbox"/> Supplier <input type="checkbox"/> User <input type="checkbox"/>	Name: Address: Country: Fixed use <input type="checkbox"/> Storage <input type="checkbox"/> Mobile use <input type="checkbox"/>
<i>Field of use:</i>		
4. Recording	5. Licence	6. Operational controls of HASS
Date of start of recording: Date of transfer of records to historic file:	Number: Date of issue: Date of expiry:	Date: Date: Date: Date: Date: Date: Date: Date: Date: Date:
7. HASS characteristics	8. Receipt of HASS	
<i>Year of manufacture:</i>	Date of receipt:	
<i>Radionuclide:</i>	Receipt from:	
<i>Activity at the date of manufacturing:</i>		
<i>Activity reference date:</i>	Name: Address: Country: Manufacturer <input type="checkbox"/> Supplier <input type="checkbox"/> Another user <input type="checkbox"/>	
<i>Manufacturer/Supplier (*):</i>		
<i>Name:</i>		
<i>Address:</i>		
<i>Country:</i>		
<i>Physical and chemical characteristics</i>	9. Transfer of HASS	10. Further information
<i>Source type identification:</i>	Date of transfer:	Loss <input type="checkbox"/> Date of loss:
<i>Capsule identification:</i>	Transfer to:	Theft <input type="checkbox"/> Date of theft:
<i>ISO classification:</i>	Name: Address: Country: Licence number: Date of issue: Date of expiry: Manufacturer <input type="checkbox"/> Supplier <input type="checkbox"/> Other undertaking <input type="checkbox"/>	Findings: Yes <input type="checkbox"/> No <input type="checkbox"/>
<i>ANSI classification:</i>		<i>Date:</i>
<i>LAEA source category:</i>		<i>Place:</i>
<i>Neutron source:</i> Yes <input type="checkbox"/> No <input type="checkbox"/>		<i>Other information:</i>
<i>Neutron source target:</i>	Facility for long term storage or disposal <input type="checkbox"/>	
<i>Neutron flux:</i>		

(*) Where the manufacturer of the source is established outside the Community, the name and address of the importer-supplier may be provided instead.

ANNEX XV

Requirements for undertakings responsible for a high-activity sealed source as referred to in Article 91

Each undertaking responsible for a high-activity sealed source shall:

- (a) ensure that suitable tests, such as leak tests based on international standards, are undertaken regularly in order to check and maintain the integrity of each source;
 - (b) regularly verify at specific intervals, which may be determined by Member States, that each source and, where relevant, the equipment containing the source are still present and in apparently good condition at their place of use or storage;
 - (c) ensure that each fixed and mobile source is subject to adequate documented measures, such as written protocols and procedures, aimed at preventing unauthorised access to or loss or theft of the source or its damage by fire;
 - (d) promptly notify the competent authority of any loss, theft, leakage or unauthorised use of a source, arrange for a check on the integrity of each source after any event, including fire, that may have damaged the source, and, if appropriate, inform the competent authority thereof and of the measures taken;
 - (e) return each disused source to the supplier or place it in a facility for long term storage or disposal or transfer it to another authorised undertaking unless otherwise agreed by the competent authority, without undue delay after termination of the use;
 - (f) ascertain that, before a transfer is made, the recipient has appropriate licence.
 - (g) promptly notify the competent authority of any accident or incident resulting in unintentional exposure of a worker or a member of the public.
-

ANNEX XVI

Identification and marking of high-activity sealed sources as referred to in Article 91

1. The manufacturer or supplier ensures that:

- (a) Each high-activity sealed source is identified by a unique number. This number shall be engraved or stamped on the source, where practicable.

The number shall also be engraved or stamped on the source container. If this is not feasible, or in the case of reusable transport containers, the source container shall, at least, bear information on the nature of the source.

- (b) The source container and, where practicable, the source are marked and labelled with an appropriate sign to warn people of the radiation hazard.

2. The manufacturer provides a photograph of each manufactured source design type and a photograph of the typical source container.

3. The undertaking ensures that each high-activity sealed source is accompanied by written information indicating that the source is identified and marked in compliance with point 1 and that the markings and labels referred to in point 1 remain legible. The information shall include photographs of the source, source container, transport packaging, device and equipment as appropriate.

ANNEX XVII

Indicative list of types of existing exposure situations as referred to in Article 100

- (a) Exposure due to contamination of areas by residual radioactive material from:
 - (i) past activities that were never subject to regulatory control or were not regulated in accordance with the requirements laid down by this Directive;
 - (ii) an emergency, after the emergency exposure situation has been declared ended, as provided for in the emergency management system;
 - (iii) residues from past activities for which the undertaking is no longer legally accountable;
 - (b) Exposure to natural radiation sources, including:
 - (i) indoor exposure to radon and thoron, in workplaces, dwellings and other buildings;
 - (ii) indoor external exposure from building materials;
 - (c) Exposure to commodities excluding food, animal feeding stuffs and drinking water incorporating
 - (i) radionuclides from contaminated areas specified in point (a), or
 - (ii) naturally-occurring radionuclides.
-

ANNEX XVIII

List of items to be considered in preparing the national action plan to address long-term risks from radon exposures as referred to in Articles 54, 74 and 103

- (1) Strategy for conducting surveys of indoor radon concentrations or soil gas concentrations for the purpose of estimating the distribution of indoor radon concentrations, for the management of measurement data and for the establishment of other relevant parameters (such as soil and rock types, permeability and radium-226 content of rock or soil).
 - (2) Approach, data and criteria used for the delineation of areas or for the definition of other parameters that can be used as specific indicators of situations with potentially high exposure to radon.
 - (3) Identification of types of workplaces and buildings with public access, such as schools, underground workplaces, and those in certain areas, where measurements are required, on the basis of a risk assessment, considering for instance occupancy hours.
 - (4) The basis for the establishment of reference levels for dwellings and workplaces. If applicable, the basis for the establishment of different reference levels for different uses of buildings (dwellings, buildings with public access, workplaces) as well as for existing and for new buildings.
 - (5) Assignment of responsibilities (governmental and non-governmental), coordination mechanisms and available resources for implementation of the action plan.
 - (6) Strategy for reducing radon exposure in dwellings and for giving priority to addressing the situations identified under point 2.
 - (7) Strategies for facilitating post construction remedial action.
 - (8) Strategy, including methods and tools, for preventing radon ingress in new buildings, including identification of building materials with significant radon exhalation.
 - (9) Schedules for reviews of the action plan.
 - (10) Strategy for communication to increase public awareness and inform local decision makers, employers and employees of the risks of radon, including in relation to smoking.
 - (11) Guidance on methods and tools for measurements and remedial measures. Criteria for the accreditation of measurement and remediation services shall also be considered.
 - (12) Where appropriate, provision of financial support for radon surveys and for remedial measures, in particular for private dwellings with very high radon concentrations.
 - (13) Long-term goals in terms of reducing lung cancer risk attributable to radon exposure (for smokers and non-smokers).
 - (14) Where appropriate, consideration of other related issues and corresponding programmes such as programmes on energy saving and indoor air quality.
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ANNEX XIX

Correlation table referred to in Article 107

This Directive	89/618/ Euratom	90/641/ Euratom	96/29/ Euratom	97/43/ Euratom	2003/122/ Euratom
Article 1	Article 1	Article 1	Article 54	Article 1	
Article 2 (1)			Article 2(1), Article 40(1), Article 48(1)		
Article 2 (2)(a)			Article 2(1)(a)		
Article 2 (2)(b)			Article 2(1)(b)		
Article 2 (2)(c)			Article 2(2), Article 40		
Article 2 (2)(d)			Article 2(3), Article 40		
Article 2 (2)(e)			Article 2(3) Article 48(1)		
Article 3			Article 2(4)		
Article 4	Articles 2, 3, 4	Article 2	Article 1	Articles 1, 2	Article 2
Article 5					
Article 5 point (a)			Article 6(1) Article 48(2)		
Article 5 point (b)			Article 6(3)(a) Article 48(2)		
Article 5 point (c)			Article 6(3)(b), Article 6(4)		
Article 6(1)			Article 7(1) and (2)		
Article 6(1)(a)					
Article 6(1)(b)					
Article 6(1)(c)				Article 4(2)(b) Article 4(4)(a)	
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Article 15(1)			Article 22(1)(a)		
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Article 15(3)			Article 22(1)(b)		
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Decisions

Secondary Legislation

• Decisions

- **DECISION No 530/2007/Euratom** of the Commission of 17 July 2007 on establishing the European High Level Group on Nuclear Safety and Waste Management
- **DECISION No 513/2007/Euratom** of the Council of 10 July 2007 on approving the accession of the European Atomic Energy Community to the amended Convention on the Physical Protection of Nuclear Material and Nuclear Facilities
- **DECISION No 908/2006/EG,Euratom** of the Council of 4 December 2006 on the first instalment of the third Community contribution to the European Bank for Reconstruction and Development for the Chernobyl Shelter Fund
- **DECISION No 845/2005/Euratom** of the Commission of 25 November 2005 concerning the accession of the European Atomic Energy Community to the Convention on Assistance in the case of a Nuclear Accident or Radiological Emergency
- **DECISION No 844/2005/Euratom** of the Commission of 25 November 2005 concerning the accession of the European Atomic Energy Community to the Convention on Early Notification of a Nuclear Accident
- **DECISION No 510/2005/Euratom** of the Commission of 14 June 2005 concerning the accession of the European Atomic Energy Community to the 'Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management'
- **DECISION No 924/1999/Euratom** of the Commission of 23 July 1999 on the conclusion of two cooperation agreements between the European Atomic Energy Community and the Cabinet of Ministers of Ukraine in the field of nuclear safety and in the field of controlled nuclear fusion

COMMISSION DECISION

of 17 July 2007

on establishing the European High Level Group on Nuclear Safety and Waste Management

(Text with EEA relevance)

(2007/530/Euratom)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 135 thereof,

Whereas:

(1) The European Atomic Energy Community (Euratom) and its Member States are committed to maintaining and further improving the safety of nuclear installations and the safe management of spent fuel and radioactive waste, as reflected in particular in existing Community legislation adopted under articles 31 and 32 of the Euratom Treaty, as well as in the relevant resolutions and conclusions of the European Council, the European Parliament, the Council, and the European Economic and Social Committee.

(2) The European Council of 8/9 March 2007 endorsed the Commission proposal to set up an EU High Level Group on Nuclear Safety and Waste Management, with the mandate of progressively developing common understanding and, eventually, additional European rules in these fields.

(3) The work of the High Level Group should take into account the conclusions of the 2798th meeting of the Council of the European Union (Economic and Financial Affairs) of 8 May 2007 which sets out a list of possible actions, on the basis of the reports of the Working Party on Nuclear Safety, and build on the existing cooperation within current international contexts (such as Convention on Nuclear Safety, Joint Convention, International Atomic Energy Agency, Organisation for Economic Co-operation and Development/Nuclear Energy Agency, Western European Nuclear Regulators Association).

(4) The High Level Group should be composed of the heads of the national regulatory or safety authorities competent in the areas of the safety of nuclear installations and the safe management of spent fuel and radioactive waste. The Commission should designate a representative.

(5) The High Level Group should on a regular basis inform the European Nuclear Energy Forum, which constitutes a comprehensive discussion platform involving all relevant stakeholders in the nuclear field. It should contribute to a consistent application, in all Member States concerned, of the relevant existing provisions.

(6) The High Level Group should submit regular activity reports, including recommendations where appropriate, to the Commission, to be transmitted to the European Parliament and to the Council.

(7) The High Level Group therefore has to be set up and its terms of reference and structures detailed,

HAS ADOPTED THIS DECISION:

Article 1

The European High Level Group on Nuclear Safety and Waste Management (hereinafter referred to as the 'High Level Group') is hereby set up.

*Article 2***Tasks**

The High Level Group, at its own initiative or at the request of the Commission, shall advise and assist the Commission in progressively developing common understanding and eventually additional European rules in the fields of:

(a) the safety of nuclear installations, and

(b) the safety of the management of spent fuel and radioactive waste.

It shall facilitate consultations, coordination and cooperation of national regulatory authorities.

*Article 3***Composition**

1. The High Level Group shall be composed of 27 national representatives with competence in the fields referred to in Article 2 and a representative of the Commission. The group may decide by simple majority to enlarge the membership by inclusion of the deputy members.

Each Member State shall nominate one member and one deputy member. Members of the group shall remain in office until such time as they are replaced.

2. A high-level representative shall be designated by the Commission to attend the meetings and participate in the debates of the High Level Group. The Commission's representative is an equal member of the group and takes part in all its meetings.

3. Members who are no longer able to contribute effectively to the group's deliberations, who resign or who do not respect the conditions for membership may be replaced for the remaining period of their mandate.

4. Members appointed individually shall each year sign an undertaking to act in the public interest and a declaration indicating the absence or existence of any interest which may undermine their objectivity.

5. The names of members appointed individually are published on the Internet site of the DG Transport and Energy.

*Article 4***Organisation**

1. The High Level Group elects a chair from amongst its members by a simple majority.

2. The High Level Group may set up expert working groups or sub-groups to study specific subjects under the terms of reference established by the group. They shall be disbanded as soon as these tasks have been fulfilled.

3. The Commission may attend all meetings of such expert working groups.

4. The group and its sub-groups normally meet on Commission premises in accordance with the procedures and schedule established. The Commission provides secretarial services.

5. Experts from EEA States and States which are candidates for accession to the European Union may attend the meeting of the High Level Group as observers. The High Level Group and the Commission may invite other experts and observers to attend its meetings.

6. The High Level Group shall adopt its Rules of Procedure by consensus or, in the absence of consensus, by a two-thirds majority vote, one vote being expressed per Member State, subject to the approval of the Commission.

7. The Commission shall provide the secretariat of the High Level Group.

*Article 5***Meeting expenses**

Travel and subsistence expenses incurred by one representative per Member State, in connection with the activities of the High Level Group, shall be reimbursed by the Commission in accordance with the provisions in force within the Commission.

The members shall not be paid for their duties.

*Article 6***Reporting**

The High Level Group shall submit, at least two years after the entry into force of this Decision, and thereafter every two years, a report of its activities to the Commission.

The Commission shall transmit the reports to the European Parliament and to the Council, where appropriate with comments.

*Article 7***Transparency**

The High Level Group shall consult extensively with all stakeholders and the interested public in an open and transparent manner.

*Article 8***Confidentiality**

Where the Commission informs the High Level Group that the advice requested or the question raised is of a confidential nature, members of the Group as well as observers and any other person shall be under an obligation not to disclose information which has come to their knowledge through the work of the High Level Group or its working groups.

The Commission representative may request in such cases that only members of the High Level Group may be present at meetings.

Article 9

Entry into force

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

Done at Brussels, 17 July 2007.

For the Commission
Andris PIEBALGS
Member of the Commission

II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

COUNCIL

COUNCIL DECISION

of 10 July 2007

**approving the accession of the European Atomic Energy Community to the amended Convention
on the Physical Protection of Nuclear Material and Nuclear Facilities**

(2007/513/Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular the second paragraph of Article 101 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Article 2(e) of the Treaty establishing the European Atomic Energy Community (Euratom Treaty) states that the European Atomic Energy Community (the Community) shall make certain, by appropriate supervision, that nuclear materials are not diverted to purposes other than those for which they are intended.
- (2) The Convention on the Physical Protection of Nuclear Material (CPPNM) was adopted in 1979 and entered into force in 1987. As of 27 June 2006, 118 States and the Community were parties to the CPPNM. All the Member States are Parties to the CPPNM.
- (3) An Amendment Conference in accordance with Article 20 of the CPPNM was convened on 4 July 2005 under the auspices of the IAEA. The final act regarding the amendments to the CPPNM was signed by the Commission on behalf of the Community on 8 July 2005.
- (4) The Court of Justice of the European Communities (Court of Justice) ⁽¹⁾ decided that the participation of

the Member States in the CPPNM is compatible with the provisions of the Euratom Treaty only subject to the conditions that, in so far as its own powers and jurisdiction are concerned, the Community as such is a party to the CPPNM on the same lines as the Member States and that certain commitments of the CPPNM can only be implemented, where the Community is concerned, by means of close association between the Community and the Member States, both in the negotiation and conclusion process and in fulfilment of the commitments assumed.

- (5) The Court of Justice confirmed further that Article 2(e) of the Euratom Treaty gives the Community the task of making certain, by appropriate supervision, that nuclear materials are not diverted to purposes other than those for which they are intended, without making any distinction with regard to the nature of such diversions and the circumstances in which they might take place and finally that the very expression 'safeguards' which the Treaty uses to characterize the provisions of chapter VII has a wider scope than the mere substitution of a different destination for the one declared by a user of nuclear materials. Consequently, according to the Court of Justice, it includes also measures of physical protection ⁽²⁾. The Court of Justice also stated in its Ruling 1/78 that provisions related to criminal prosecution and extradition relate to matters falling within the jurisdiction of the Member States ⁽³⁾.
- (6) According to Article 18(4) of the CPPNM, when becoming party to the Convention the Community must communicate to the depositary a declaration indicating which articles of the CPPNM do not apply to it. That declaration is attached to this Decision.

⁽¹⁾ Ruling 1/78 of 14 November 1978, ECR 1978, p. 2151, in particular First operative part of the Ruling and paragraph 34.

⁽²⁾ Paragraph 21.

⁽³⁾ Paragraph 31.

(7) Article 7 of the CPPNM requires each party to make certain offences punishable by appropriate penalties which take into account their grave nature. It is understood that this provision leaves to the parties the choice of the nature, type and level of the penalties to be adopted. In particular, it does not require that the parties make the conducts described therein punishable by criminal penalties. Consequently, Article 7 applies to the Community, at least to some extent.

(8) Therefore the accession of the Community to the amended CPPNM should be approved,

HAS DECIDED AS FOLLOWS:

Sole Article

The accession of the European Atomic Energy Community to the Convention on the Physical Protection of Nuclear Material

and Nuclear Facilities, as amended by the Final Act signed on 8 July 2005, is hereby approved.

The texts of the amended Convention and of the declaration by the Community according to Articles 18(4) and 17(3) of the Convention are attached to this Decision.

Done at Brussels, 10 July 2007.

For the Council

The President

F. TEIXEIRA DOS SANTOS

COUNCIL DECISION

of 4 December 2006

on the first instalment of the third Community contribution to the European Bank for Reconstruction and Development for the Chernobyl Shelter Fund

(2006/908/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 308 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 203 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas:

(1) The Community, in pursuance of a clear policy of supporting Ukraine in its efforts to eliminate the consequences of the nuclear accident which occurred on 26 April 1986 at the Chernobyl Nuclear Power Plant, has already contributed EUR 90,5 million over the years 1999 to 2000 to the Chernobyl Shelter Fund, established at the European Bank for Reconstruction and Development (EBRD), in accordance with Decision 98/381/EC, Euratom ⁽²⁾ and a further EUR 100 million over the years 2001 to 2005, in accordance with Decision 2001/824/EC, Euratom ⁽³⁾.

(2) The EBRD, as administrator of the Chernobyl Shelter Fund, confirmed to the Fund's Assembly of Contributors that there was a shortfall of roughly EUR 250 million and that there were not sufficient unallocated funds to allow a contract award for the New Safe Confinement. New commitments were required from the contributors in 2005 to avoid further delays to the project.

(3) The ex-G7 Members and the Community, which have provided most of the contributions to the Chernobyl Shelter Fund, agreed on the principle of further contributions to the Fund according to the historical burden-sharing amongst the contributors.

(4) Council Regulation (EC, Euratom) No 99/2000 of 29 December 1999 concerning the provision of assistance to partner States in Eastern Europe and Central Asia ⁽⁴⁾ includes as a priority in the area of nuclear safety the contribution to relevant EU-supported international initiatives such as the G7/EU initiative on the closure of Chernobyl.

(5) In the Communication of 6 September 2000 from the Commission to the European Parliament and the Council, the Commission proposed that from 2001 Community financial support for nuclear safety in the newly independent States and the countries of central and eastern Europe should be taken from a single budget line for financial assistance to nuclear safety for the newly independent States.

(6) EBRD procurement rules apply to grants made from the resources of the Chernobyl Shelter Fund, on the understanding that procurement should in principle be limited to goods and services produced in or supplied from the countries of the contributors or the countries of EBRD operations. Those rules are not identical to those applied to operations directly financed through the TACIS programme, which cannot consequently cover the contribution which is the subject of this Decision.

(7) It is, however, appropriate to ensure that, with regard to procurement arrangements made pursuant to the EBRD's Rules of the Chernobyl Shelter Fund, there is no discrimination between individual Member States, irrespective of whether they have concluded individual contribution agreements with the EBRD or not.

(8) It is also appropriate that procurement arrangements with third countries that are not TACIS partner countries be authorised, on a case-by-case basis, in the interest of the projects concerning the Chernobyl Shelter Implementation Plan.

(9) The Treaties do not provide, for the adoption of this Decision, powers other than those of Article 308 of the EC Treaty and Article 203 of the Euratom Treaty,

⁽¹⁾ Opinion delivered on 14 November 2006 (not yet published in the Official Journal).

⁽²⁾ OJ L 171, 17.6.1998, p. 31.

⁽³⁾ OJ L 308, 27.11.2001, p. 25.

⁽⁴⁾ OJ L 12, 18.1.2000, p. 1. Regulation as amended by Regulation (EC) No 2112/2005 (OJ L 344, 27.12.2005, p. 23).

HAS DECIDED AS FOLLOWS:

Article 1

The Community shall make a contribution of EUR 14,4 million to the European Bank for Reconstruction and Development (EBRD) for the Chernobyl Shelter Fund in 2006.

The appropriation shall be authorised by the budgetary authority within the limits of the financial perspective. The contribution shall be financed against available annual budgetary appropriations.

Article 2

1. The Commission shall administer the contribution to the Chernobyl Shelter Fund in accordance with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽¹⁾, having particular regard to the principles of sound and efficient management.

The Commission shall forward all relevant information to the budgetary authority and the Court of Auditors and shall provide any supplementary information that they may wish to receive, as regards the aspects of the operation of the Chernobyl Shelter Fund that relate to the Community's contribution.

2. The Commission shall ensure that, with respect to procurement arrangements relating to grants made from the

resources of the Chernobyl Shelter Fund, there is no discrimination between the Member States.

The Commission may authorise, on a case-by-case basis, procurement arrangements with third countries that are not TACIS partner countries, in the interest of the projects concerning the Chernobyl Shelter Implementation Plan.

Article 3

In accordance with Section 2.02 of Article II of the Rules of the Chernobyl Shelter Fund, the Community contribution shall be the subject of a formal Contribution Agreement between the Commission and the EBRD.

Article 4

The Commission shall submit to the European Parliament and to the Council, on a yearly basis, a progress report on the implementation of the Chernobyl Shelter Fund.

Done at Brussels, 4 December 2006.

For the Council

The President

L. LUHTANEN

⁽¹⁾ OJ L 248, 16.9.2002, p. 1.

COMMISSION DECISION**of 25 November 2005****concerning the accession of the European Atomic Energy Community to the Convention on Assistance in the case of a Nuclear Accident or Radiological Emergency**

(2005/845/Euratom)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Atomic Energy Community and in particular the second paragraph of Article 101 thereof,

Having regard to the Council Decision of 23 May 2005 approving the conclusion of the Convention on Assistance in the case of a Nuclear Accident or Radiological Emergency,

Whereas:

- (1) Twenty-three Member States are contracting parties to the Convention on Assistance in the case of a Nuclear Accident or Radiological Emergency.
- (2) The European Atomic Energy Community should accede to the Convention on Assistance in the case of a Nuclear Accident or Radiological Emergency,

HAS DECIDED AS FOLLOWS:

Article 1

Accession to the Convention on Assistance in the case of a Nuclear Accident or Radiological Emergency is hereby

approved on behalf of the European Atomic Energy Community.

The text of the Convention on Assistance in the case of a Nuclear Accident or Radiological Emergency and the declaration by the European Atomic Energy Community according to the provisions of Article 14(5)(c) of that Convention are attached to this Decision.

Article 2

The instrument of accession shall be deposited with the Director General of the International Atomic Energy Agency, depositary of the Convention on Assistance in the case of a Nuclear Accident or Radiological Emergency, as soon as possible after the adoption of this Decision in the form of a letter signed by the Head of Delegation of the European Commission to the International Organisations in Vienna.

Done at Brussels, 25 November 2005.

For the Commission

Andris PIEBALGS

Member of the Commission

COMMISSION

COMMISSION DECISION

of 25 November 2005

concerning the accession of the European Atomic Energy Community to the Convention on Early Notification of a Nuclear Accident

(2005/844/Euratom)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Atomic Energy Community and in particular the second paragraph of Article 101 thereof,

Having regard to the Council Decision of 23 May 2005 approving the conclusion of the Convention on Early Notification of a Nuclear Accident,

Whereas:

- (1) Twenty-four Member States are contracting parties to the Convention on Early Notification of a Nuclear Accident.
- (2) The European Atomic Energy Community should accede to the Convention on Early Notification of a Nuclear Accident,

HAS DECIDED AS FOLLOW:

Article 1

Accession to the Convention on Early Notification of a Nuclear Accident is hereby approved on behalf of the European Atomic Energy Community.

The text of the Convention on Early Notification of a Nuclear Accident and the declaration by the European Atomic Energy Community according to the provisions of Article 12(5)(c) of that Convention are attached to this Decision.

Article 2

The instrument of accession shall be deposited with the Director General of the International Atomic Energy Agency, depositary of the Convention on Early Notification of a Nuclear Accident, as soon as possible after the adoption of this Decision in the form of a letter signed by the Head of Delegation of the European Commission to the International Organisations in Vienna.

Done at Brussels, 25 November 2005.

For the Commission

Andris PIEBALGS

Member of the Commission

COMMISSION

COMMISSION DECISION

of 14 June 2005

concerning the accession of the European Atomic Energy Community to the 'Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management'

(notified under document number C(2005) 1729)

(2005/510/Euratom)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Article 1

Having regard to the Treaty establishing the European Atomic Energy Community and in particular the second paragraph of Article 101 thereof,

Accession to the Joint Convention is hereby approved on behalf of the European Atomic Energy Community.

Having regard to the Council Decision 2005/84/Euratom ⁽¹⁾ of 24 January 2005 approving the accession of the European Atomic Energy Community to the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management (Joint Convention thereafter),

The text of the Joint Convention and the declaration by the European Atomic Energy Community according to the provisions of Article 39(4)(iii) of the Joint Convention are attached to this Decision.

Article 2

Whereas:

The declaration attached to this Decision shall be deposited with the Director-General of the International Atomic Energy Agency, depositary of the Joint Convention, as soon as possible after the adoption of this Decision by letter signed by the Head of Delegation of the European Commission to the International Organisations in Vienna.

(1) Twenty-two Member States are contracting parties to the Joint Convention.

(2) The European Atomic Energy Community shall accede to the Joint Convention,

Done at Brussels, 14 June 2005.

HAS ADOPTED THIS DECISION:

For the Commission
Andris PIEBALGS
Member of the Commission

⁽¹⁾ OJ L 30, 3.2.2005, p. 10.

Declaration by the European Atomic Energy Community according to the provisions of Article 39(4)(iii) of the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management

The following States are presently members of the European Atomic Energy Community: the Kingdom of Belgium, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland.

The Community declares that Articles 1 to 16, 18, 19, 21 and 24 to 44 of the Joint Convention apply to it.

The Community possesses competences, shared with the abovementioned Member States, in the fields covered by Articles 4, 6 to 11, 13 to 16, 19 and 24 to 28 of the Joint Convention as provided by the Treaty establishing the European Atomic Energy Community in Article 2(b) and the relevant Articles of Title II, Chapter 3, entitled 'Health and Safety'.

COMMISSION

COMMISSION DECISION

of 23 July 1999

on the conclusion of two cooperation agreements between the European Atomic Energy Community and the Cabinet of Ministers of Ukraine in the field of nuclear safety and in the field of controlled nuclear fusion

(notified under document number C(1999) 2405)

(2002/924/Euratom)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Atomic Energy Community and in particular the second paragraph of Article 101 thereof,

Having regard to the approval of the Council,

Whereas the two agreements between the European Atomic Energy Community and the Cabinet of Ministers of Ukraine in the field of nuclear safety and in the field of nuclear fusion must be concluded,

HAS DECIDED AS FOLLOWS:

Sole Article

The two agreements between the European Atomic Energy Community and the Cabinet of Ministers of Ukraine in the field of nuclear safety and in the field of controlled nuclear fusion are hereby concluded on behalf of the European Atomic Energy Community.

The text of the two Agreements are attached to this Decision.

Done at Brussels, 23 July 1999.

For the Commission
Hans VAN DEN BROEK
Member of the Commission

Conventions

International Conventions

(The EU is bound by the international agreements which it concludes. These have priority over secondary law, but, with the exception of compelling international law, rank below primary law.)

- **Convention on Nuclear Safety**
- **Convention on Physical Protection of Nuclear Material**
- **Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency**
- **Convention on Early Notification of a Nuclear Accident**
- **Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management**

CONVENTION ON NUCLEAR SAFETY

PREAMBLE

THE CONTRACTING PARTIES,

- (i) aware of the importance to the international community of ensuring that the use of nuclear energy is safe, well regulated and environmentally sound;
- (ii) reaffirming the necessity of continuing to promote a high level of nuclear safety worldwide;
- (iii) reaffirming that responsibility for nuclear safety rests with the state having jurisdiction over a nuclear installation;
- (iv) desiring to promote an effective nuclear safety culture;
- (v) aware that accidents at nuclear installations have the potential for transboundary impacts;
- (vi) keeping in mind the Convention on the Physical Protection of Nuclear Material (1979), the Convention on Early Notification of a Nuclear Accident (1986), and the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency (1986);
- (vii) affirming the importance of international cooperation for the enhancement of nuclear safety through existing bilateral and multilateral mechanisms and the establishment of this incentive Convention;
- (viii) recognising that this Convention entails a commitment to the application of fundamental safety principles for nuclear installations rather than of detailed safety standards and that there are internationally formulated safety guidelines which are updated from time to time and so can provide guidance on contemporary means of achieving a high level of safety;
- (ix) affirming the need to begin promptly the development of an international convention on the safety of radioactive waste management as soon as the ongoing process to develop waste management safety fundamentals has resulted in broad international agreement;
- (x) recognising the usefulness of further technical work in connection with the safety of other parts of the nuclear fuel cycle, and that this work may, in time, facilitate the development of current or future international instruments;

HAVE AGREED as follows:

CHAPTER 1

OBJECTIVES, DEFINITIONS AND SCOPE OF APPLICATION*Article 1***Objectives**

The objectives of this Convention are:

- (i) to achieve and maintain a high level of nuclear safety worldwide through the enhancement of national measures and international cooperation including, where appropriate, safety-related technical cooperation;
- (ii) to establish and maintain effective defences in nuclear installations against potential radiological hazards in order to protect individuals, society and the environment from harmful effects of ionising radiation from such installations;
- (iii) to prevent accidents with radiological consequences and to mitigate such consequences should they occur.

*Article 2***Definitions**

For the purpose of this Convention:

- (i) 'nuclear installation' means for each Contracting Party any land-based civil nuclear power plant under its jurisdiction including such storage, handling and treatment facilities for radioactive materials as are on the same site and are directly related to the operation of the nuclear power plant. Such a plant ceases to be a nuclear installation when all nuclear fuel elements have been removed permanently from the reactor core and have been stored safely in accordance with approved procedures, and a decommissioning programme has been agreed to by the regulatory body;

- (ii) 'regulatory body' means for each Contracting Party any body or bodies given the legal authority by that Contracting Party to grant licences and to regulate the siting, design, construction, commissioning, operation or decommissioning of nuclear installations;
- (iii) 'licence' means any authorisation granted by the regulatory body to the applicant to have the responsibility for the siting, design, construction, commissioning, operation or decommissioning of a nuclear installation.

Article 3

Scope of application

This Convention shall apply to the safety of nuclear installations.

CHAPTER 2

OBLIGATIONS

(a) *General provisions*

Article 4

Implementing measures

Each Contracting Party shall take, within the framework of its national law, the legislative, regulatory and administrative measures and other steps necessary for implementing its obligations under this Convention.

Article 5

Reporting

Each Contracting Party shall submit for review, prior to each meeting referred to in Article 20, a report on the measures it has taken to implement each of the obligations of this Convention.

Article 6

Existing nuclear installations

Each Contracting Party shall take the appropriate steps to ensure that the safety of nuclear installations existing at the time the Convention enters into force for that Contracting Party is reviewed as soon as possible. When necessary in the context of this Convention, the Contracting Party shall ensure that all reasonably practicable improvements are made as a matter of urgency to upgrade the safety of the nuclear installation. If such upgrading cannot be achieved, plans should be implemented to shut down the nuclear installation as soon as practically possible. The timing of the shut-down may take into account the whole energy context and possible alternatives as well as the social, environmental and economic impact.

(b) *Legislation and regulation*

Article 7

Legislative and regulatory framework

1. Each Contracting Party shall establish and maintain a legislative and regulatory framework to govern the safety of nuclear installations.
2. The legislative and regulatory framework shall provide for:
 - (i) the establishment of applicable national safety requirements and regulations;
 - (ii) a system of licensing with regard to nuclear installations and the prohibition of the operation of a nuclear installation without a licence;
 - (iii) a system of regulatory inspection and assessment of nuclear installations to ascertain compliance with applicable regulations and the terms of licences;
 - (iv) the enforcement of applicable regulations and of the terms of licences, including suspension, modification or revocation.

*Article 8***Regulatory body**

1. Each Contracting Party shall establish or designate a regulatory body entrusted with the implementation of the legislative and regulatory framework referred to in Article 7, and provided with adequate authority, competence and financial and human resources to fulfil its assigned responsibilities.
2. Each Contracting Party shall take the appropriate steps to ensure an effective separation between the functions of the regulatory body and those of any other body or organisation concerned with the promotion or utilisation of nuclear energy.

*Article 9***Responsibility of the licence holder**

Each Contracting Party shall ensure that prime responsibility for the safety of a nuclear installation rests with the holder of the relevant licence and shall take the appropriate steps to ensure that each such licence holder meets its responsibility.

*(c) General safety considerations**Article 10***Priority to safety**

Each Contracting Party shall take the appropriate steps to ensure that all organisations engaged in activities directly related to nuclear installations shall establish policies that give due priority to nuclear safety.

*Article 11***Financial and human resources**

1. Each Contracting Party shall take the appropriate steps to ensure that adequate financial resources are available to support the safety of each nuclear installation throughout its life.
2. Each Contracting Party shall take the appropriate steps to ensure that sufficient numbers of qualified staff with appropriate education, training and retraining are available for all safety-related activities in or for each nuclear installation, throughout its life.

*Article 12***Human factors**

Each Contracting Party shall take the appropriate steps to ensure that the capabilities and limitations of human performance are taken into account throughout the life of a nuclear installation.

*Article 13***Quality assurance**

Each Contracting Party shall take the appropriate steps to ensure that quality assurance programmes are established and implemented with a view to providing confidence that specified requirements for all activities important to nuclear safety are satisfied throughout the life of a nuclear installation.

*Article 14***Assessment and verification of safety**

Each Contracting Party shall take the appropriate steps to ensure that:

- (i) comprehensive and systematic safety assessments are carried out before the construction and commissioning of a nuclear installation and throughout its life. Such assessments shall be well documented, subsequently updated in the light of operating experience and significant new safety information, and reviewed under the authority of the regulatory body;
- (ii) verification by analysis, surveillance, testing and inspection is carried out to ensure that the physical state and the operation of a nuclear installation continue to be in accordance with its design, applicable national safety requirements, and operational limits and conditions.

*Article 15***Radiation protection**

Each Contracting Party shall take the appropriate steps to ensure that in all operational states, the radiation exposure to the workers and the public caused by a nuclear installation shall be kept as low as reasonably achievable and that no individual shall be exposed to radiation doses which exceed prescribed national dose limits.

*Article 16***Emergency preparedness**

1. Each Contracting Party shall take the appropriate steps to ensure that there are on-site and off-site emergency plans that are routinely tested for nuclear installations and cover the activities to be carried out in the event of an emergency.

For any new nuclear installation, such plans shall be prepared and tested before it commences operation above a low power level agreed by the regulatory body.

2. Each Contracting Party shall take the appropriate steps to ensure that, in so far as they are likely to be affected by a radiological emergency, its own population and the competent authorities of the states in the vicinity of the nuclear installation are provided with appropriate information for emergency planning and response.

3. Contracting Parties which do not have a nuclear installation on their territory, in so far as they are likely to be affected in the event of a radiological emergency at a nuclear installation in the vicinity, shall take the appropriate steps for the preparation and testing of emergency plans for their territory that cover the activities to be carried out in the event of such an emergency.

(d) Safety of installations*Article 17***Siting**

Each Contracting Party shall take the appropriate steps to ensure that appropriate procedures are established and implemented:

- (i) for evaluating all relevant site-related factors likely to affect the safety of a nuclear installation for its projected lifetime;
- (ii) for evaluating the likely safety impact of a proposed nuclear installation on individuals, society and the environment;
- (iii) for re-evaluating as necessary all relevant factors referred to in subparagraphs (i) and (ii) so as to ensure the continued safety acceptability of the nuclear installation;
- (iv) for consulting Contracting Parties in the vicinity of a proposed nuclear installation, in so far as they are likely to be affected by that installation and, on request providing the necessary information to such Contracting Parties, in order to enable them to evaluate and make their own assessment of the likely safety impact on their own territory of the nuclear installation.

*Article 18***Design and construction**

Each Contracting Party shall take the appropriate steps to ensure that:

- (i) the design and construction of a nuclear installation provide for several reliable levels and methods of protection (defence in depth) against the release of radioactive materials, with a view to preventing the occurrence of accidents and to mitigating their radiological consequences should they occur;
- (ii) the technologies incorporated in the design and construction of a nuclear installation are proven by experience or qualified by testing or analysis;
- (iii) the design of a nuclear installation allows for reliable, stable and easily manageable operation, with specific consideration of human factors and the man-machine interface.

*Article 19***Operation**

Each Contracting Party shall take the appropriate steps to ensure that:

- (i) the initial authorisation to operate a nuclear installation is based on an appropriate safety analysis and a commissioning programme demonstrating that the installation, as constructed, is consistent with design and safety requirements;
- (ii) operational limits and conditions derived from the safety analysis, tests and operational experience are defined and revised as necessary for identifying safe boundaries for operation;
- (iii) operation, maintenance, inspection and testing of a nuclear installation are conducted in accordance with approved procedures;
- (iv) procedures are established for responding to anticipated operational occurrences and to accidents;
- (v) necessary engineering and technical support in all safety-related fields is available throughout the lifetime of a nuclear installation;
- (vi) incidents significant to safety are reported in a timely manner by the holder of the relevant licence to the regulatory body;
- (vii) programmes to collect and analyse operating experience are established, the results obtained and the conclusions drawn are acted on and that existing mechanisms are used to share important experience with international bodies and with other operating organisations and regulatory bodies;
- (viii) the generation of radioactive waste resulting from the operation of a nuclear installation is kept to the minimum practicable for the process concerned, both in activity and in volume, and any necessary treatment and storage of spent fuel and waste directly related to the operation and on the same site as that of the nuclear installation take into consideration conditioning and disposal.

CHAPTER 3

MEETINGS OF THE CONTRACTING PARTIES*Article 20***Review meetings**

1. The Contracting Parties shall hold meetings (hereinafter referred to as 'review meetings') for the purpose of reviewing the reports submitted pursuant to Article 5 in accordance with the procedures adopted under Article 22.
2. Subject to the provisions of Article 24 subgroups comprised of representatives of the Contracting Parties may be established and may function during the review meetings as deemed necessary for the purpose of reviewing specific subjects contained in the reports.
3. Each Contracting Party shall have a reasonable opportunity to discuss the reports submitted by other Contracting Parties and to seek clarification of such reports.

*Article 21***Timetable**

1. A preparatory meeting of the Contracting Parties shall be held not later than six months after the date of entry into force of this Convention.
2. At this preparatory meeting, the Contracting Parties shall determine the date for the first review meeting. This review meeting shall be held as soon as possible, but not later than 30 months after the date of entry into force of this Convention.
3. At each review meeting, the Contracting Parties shall determine the date for the next such meeting. The interval between review meetings shall not exceed three years.

*Article 22***Procedural arrangements**

1. At the preparatory meeting held pursuant to Article 21 the Contracting Parties shall prepare and adopt by consensus Rules of Procedure and Financial Rules. The Contracting Parties shall establish in particular and in accordance with the Rules of Procedure:

- (i) guidelines regarding the form and structure of the reports to be submitted pursuant to Article 5;
- (ii) a date for the submission of such reports;
- (iii) the process for reviewing such reports.

2. At review meetings the Contracting Parties may, if necessary, review the arrangements established pursuant to subparagraphs (i) to (iii), and adopt revisions by consensus unless otherwise provided for in the Rules of Procedure. They may also amend the Rules of Procedure and the Financial Rules, by consensus.

*Article 23***Extraordinary meetings**

An extraordinary meeting of the Contracting Parties shall be held:

- (i) if so agreed by a majority of the Contracting Parties present and voting at a meeting, abstentions being considered as voting; or
- (ii) at the written request of a Contracting Party, within six months of this request having been communicated to the Contracting Parties and notification having been received by the secretariat referred to in Article 28, that the request has been supported by a majority of the Contracting Parties.

*Article 24***Attendance**

1. Each Contracting Party shall attend meetings of the Contracting Parties and be represented at such meetings by one delegate, and by such alternates, experts and advisers as it deems necessary.

2. The Contracting Parties may invite, by consensus, any intergovernmental organisation which is competent in respect of matters governed by this Convention to attend, as an observer, any meeting, or specific sessions thereof. Observers shall be required to accept in writing, and in advance, the provisions of Article 27.

*Article 25***Summary reports**

The Contracting Parties shall adopt, by consensus, and make available to the public a document addressing issues discussed and conclusions reached during a meeting.

*Article 26***Languages**

1. The languages of meetings of the Contracting Parties shall be Arabic, Chinese, English, French, Russian and Spanish unless otherwise provided in the Rules of Procedure.

2. Reports submitted pursuant to Article 5 shall be prepared in the national language of the submitting Contracting Party or in a single designated language to be agreed in the Rules of Procedure. Should the report be submitted in a national language other than the designated language, a translation of the report into the designated language shall be provided by the Contracting Party.

3. Notwithstanding the provisions of paragraph 2, if compensated, the secretariat will assume the translation into the designated language of reports submitted in any other language of the meeting.

*Article 27***Confidentiality**

1. The provisions of this Convention shall not affect the rights and obligations of the Contracting Parties under their law to protect information from disclosure. For the purposes of this Article, 'information' includes, *inter alia*, (i) personal data; (ii) information protected by intellectual property rights or by industrial or commercial confidentiality; and (iii) information relating to national security or to the physical protection of nuclear materials or nuclear installations.
2. When, in the context of this Convention, a Contracting Party provides information identified by it as protected as described in paragraph 1, such information shall be used only for the purposes for which it has been provided and its confidentiality shall be respected.
3. The content of the debates during the reviewing of the reports by the Contracting Parties at each meeting shall be confidential.

*Article 28***Secretariat**

1. The International Atomic Energy Agency, (hereinafter referred to as the 'Agency') shall provide the secretariat for the meetings of the Contracting Parties.
2. The secretariat shall:
 - (i) convene, prepare and service the meetings of the Contracting Parties;
 - (ii) transmit to the Contracting Parties information received or prepared in accordance with the provisions of this Convention.

The costs incurred by the Agency in carrying out the functions referred to in subparagraphs (i) and (ii) shall be borne by the Agency as part of its regular budget.

3. The Contracting Parties may, by consensus, request the Agency to provide other services in support of meetings of the Contracting Parties. The Agency may provide such services if they can be undertaken within its programme and regular budget. Should this not be possible, the Agency may provide such services if voluntary funding is provided from another source.

CHAPTER 4

FINAL CLAUSES AND OTHER PROVISIONS*Article 29***Resolution of disagreements**

In the event of a disagreement between two or more Contracting Parties concerning the interpretation or application of this Convention, the Contracting Parties shall consult within the framework of a meeting of the Contracting Parties with a view to resolving the disagreement.

*Article 30***Signature, ratification, acceptance, approval, accession**

1. This Convention shall be open for signature by all states at the Headquarters of the Agency in Vienna from 20 September 1994 until its entry into force.
2. This Convention is subject to ratification, acceptance or approval by the signatory states.
3. After its entry into force, this Convention shall be open for accession by all states.
4. (i) This Convention shall be open for signature or accession by regional organisations of an integration or other nature, provided that any such organisation is constituted by sovereign states and has competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this Convention.

- (ii) In matters within their competence, such organisations shall, on their own behalf, exercise the rights and fulfil the responsibilities which this Convention attributes to states parties.
 - (iii) When becoming party to this Convention, such an organisation shall communicate to the depositary referred to in Article 34, a declaration indicating which states are members thereof, which articles of this Convention apply to it, and the extent of its competence in the field covered by those articles.
 - (iv) Such an organisation shall not hold any vote additional to those of its Member States.
5. Instruments of ratification, acceptance, approval or accession shall be deposited with the depositary.

Article 31

Entry into force

1. This Convention shall enter into force on the 90th day after the date of deposit with the depositary of the 22nd instrument of ratification, acceptance or approval, including the instruments of 17 states, each having at least one nuclear installation which has achieved criticality in a reactor core.
2. For each state or regional organisation of an integration of other nature which ratifies, accepts, approves or accedes to this Convention after the date of deposit of the last instrument required to satisfy the conditions set forth in paragraph 1, this Convention shall enter into force on the 90th day after the date of deposit with the depositary of the appropriate instrument by such a state or organisation.

Article 32

Amendments to the Convention

1. Any Contracting Party may propose an amendment to this Convention. Proposed amendments shall be considered at a review meeting or an extraordinary meeting.
2. The text of any proposed amendment and the reasons for it shall be provided to the depositary who shall communicate the proposal to the Contracting Parties promptly and at least 90 days before the meeting for which it is submitted for consideration. Any comments received on such a proposal shall be circulated by the depositary to the Contracting Parties.
3. The Contracting Parties shall decide after consideration of the proposed amendment whether to adopt it by consensus, or, in the absence of consensus, to submit it to a Diplomatic Conference. A decision to submit a proposed amendment to a Diplomatic Conference shall require a two thirds majority vote of the Contracting Parties present and voting at the meeting, provided that at least one half of the Contracting Parties are present at the time of voting. Abstentions shall be considered as voting.
4. The Diplomatic Conference to consider and adopt amendments to this Convention shall be convened by the depositary and held no later than one year after the appropriate decision taken in accordance with paragraph 3 of this Article. The Diplomatic Conference shall make every effort to ensure amendments are adopted by consensus. Should this not be possible, amendments shall be adopted with a two thirds majority of all Contracting Parties.
5. Amendments to this Convention adopted pursuant to paragraphs 3 and 4 shall be subject to ratification, acceptance, approval, or confirmation by the Contracting Parties and shall enter into force for those Contracting Parties which have ratified, accepted, approved or confirmed them on the 90th day after the receipt by the depositary of the relevant instruments by at least three fourths of the Contracting Parties. For a Contracting Party which subsequently ratifies, accepts, approves or confirms the said amendments, the amendments will enter into force on the 90th day after that Contracting Party has deposited its relevant instrument.

Article 33

Denunciation

1. Any Contracting Party may denounce this Convention by written notification to the depositary.
2. Denunciation shall take effect one year following the date of the receipt of the notification by the depositary, or on such later date as may be specified in the notification.

*Article 34***Depositary**

1. The Director General of the Agency shall be the depositary of this Convention.
2. The depositary shall inform the Contracting Parties of:
 - (i) the signature of this Convention and of the deposit of instruments of ratification, acceptance, approval or accession, in accordance with Article 30;
 - (ii) the date on which the Convention enters into force, in accordance with Article 31;
 - (iii) the notifications of denunciation of the Convention and the date thereof, made in accordance with Article 33;
 - (iv) the proposed amendments to this Convention submitted by Contracting Parties, the amendments adopted by the relevant Diplomatic Conference or by the meeting of the Contracting Parties, and the date of entry into force of the said amendments, in accordance with Article 32.

*Article 35***Authentic texts**

The original of this Convention of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the depositary, who shall send certified copies thereof to the Contracting Parties.

Declaration by the European Atomic Energy Community according to the provisions of Article 30(4)(iii) of the Nuclear Safety Convention

The following States are presently members of the European Atomic Energy Community: the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland.

The Community declares that Articles 15 and 16(2) of the Convention apply to it. Articles 1 to 5, Article 7(1), Article 14(ii) and Articles 20 to 35 also apply to it only in so far as the fields covered by Articles 15 and 16(2) are concerned.

The Community possesses competence, shared with the abovementioned Member States, in the fields covered by Articles 15 and 16(2) of the Convention as provided for by the Treaty establishing the European Atomic Energy Community in Article 2(b) and the relevant Articles of Title II, Chapter 3 entitled 'Health and safety'.



International Atomic Energy Agency

INFORMATION CIRCULAR

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THE CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL

1. The Convention on the Physical Protection of Nuclear Material was opened for signature on 3 March 1980, pursuant to Article 18.1 thereof and following the conclusion of negotiations on 28 October 1979.
2. The texts of the Convention[1] and of the Final Act of the Meeting of Governmental Representatives to Consider the Drafting of the Convention are reproduced in this document for the information of all Member States.
3. Member States will be informed by an addendum to this document of the entry into force of the Convention pursuant to Article 19.1 thereof.

[1] The text of the Convention was transmitted to the twenty-third (1979) regular session of the General Conference of the International Atomic Energy Agency, pursuant to paragraph 11 of the Final Act, as document INFCIRC/274.

CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL

THE STATES PARTIES TO THIS CONVENTION,

RECOGNIZING the right of all States to develop and apply nuclear energy for peaceful purposes and their legitimate interests in the potential benefits to be derived from the peaceful application of nuclear energy,

CONVINCED of the need for facilitating international co-operation in the peaceful application of nuclear energy,

DESIRING to avert the potential dangers posed by the unlawful taking and use of nuclear material,

CONVINCED that offences relating to nuclear material are a matter of grave concern and that there is an urgent need to adopt appropriate and effective measures to ensure the prevention, detection and punishment of such offences,

AWARE OF THE NEED FOR international co-operation to establish, in conformity with the national law of each State Party and with this Convention, effective measures for the physical protection of nuclear material,

CONVINCED that this Convention should facilitate the safe transfer of nuclear material,

STRESSING also the importance of the physical protection of nuclear material in domestic use, storage and transport,

RECOGNIZING the importance of effective physical protection of nuclear material used for military purposes, and understanding that such material is and will continue to be accorded stringent physical protection,

HAVE AGREED as follows:

Article 1

For the purposes of this Convention:

- (a) "nuclear material" means plutonium except that with isotopic concentration exceeding 80% in plutonium-238; uranium-233; uranium enriched in the isotope 235 or 233; uranium containing the mixture of isotopes as occurring in nature other than in the form of ore or ore-residue; any material containing one or more of the foregoing;
- (b) "uranium enriched in the isotope 235 or 233" means uranium containing the isotope 235 or 233 or both in an amount such that the abundance ratio of the sum of these isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature;
- (c) "international nuclear transport" means the carriage of a consignment of nuclear material by any means of transportation intended to go beyond the territory of the State where the shipment originates beginning with the

departure from a facility of the shipper in that State and ending with the arrival at a facility of the receiver within the State of ultimate destination.

Article 2

1. This Convention shall apply to nuclear material used for peaceful purposes while in international nuclear transport.
2. With the exception of articles 3 and 4 and paragraph 3 of article 5, this Convention shall also apply to nuclear material used for peaceful purposes while in domestic use, storage and transport.
3. Apart from the commitments expressly undertaken by States Parties in the articles covered by paragraph 2 with respect to nuclear material used for peaceful purposes while in domestic use, storage and transport, nothing in this Convention shall be interpreted as affecting the sovereign rights of a State regarding the domestic use, storage and transport of such nuclear material.

Article 3

Each State Party shall take appropriate steps within the framework of its national law and consistent with international law to ensure as far as practicable that, during international nuclear transport, nuclear material within its territory, or on board a ship or aircraft under its jurisdiction insofar as such ship or aircraft is engaged in the transport to or from that State, is protected at the levels described in Annex I.

Article 4

1. Each State Party shall not export or authorize the export of nuclear material unless the State Party has received assurances that such material will be protected during the international nuclear transport at the levels described in Annex I.
2. Each State Party shall not import or authorize the import of nuclear material from a State not party to this Convention unless the State Party has received assurances that such material will during the international nuclear transport be protected at the levels described in Annex I.
3. A State Party shall not allow the transit of its territory by land or internal waterways or through its airports or seaports of nuclear material between States that are not parties to this Convention unless the State Party has received assurances as far as practicable that this nuclear material will be protected during international nuclear transport at the levels described in Annex I.
4. Each State Party shall apply within the framework of its national law the levels of physical protection described in Annex I to nuclear material being transported from a part of that State to another part of the same State through international waters or airspace.
5. The State Party responsible for receiving assurances that the nuclear material will be protected at the levels described in Annex I according to paragraphs 1 to 3 shall identify and inform in advance States which the nuclear material is expected to transit by land or internal waterways, or whose airports or seaports it is expected to enter.
6. The responsibility for obtaining assurances referred to in paragraph 1 may be transferred, by mutual agreement, to the State Party involved in the transport as the importing State.
7. Nothing in this article shall be interpreted as in any way affecting the territorial sovereignty and jurisdiction of a State, including that over its airspace and territorial sea.

Article 5

1. States Parties shall identify and make known to each other directly or through the International Atomic Energy Agency their central authority and point of contact having responsibility for physical protection of nuclear material and for co-ordinating recovery and response operations in the event of any unauthorized removal, use or alteration of nuclear material or in the event of credible threat thereof.
2. In the case of theft, robbery or any other unlawful taking of nuclear material or of credible threat thereof, States Parties shall, in accordance with their national law, provide co-operation and assistance to the maximum feasible extent in the recovery and protection of such material to any State that so requests. In particular:
 - (a) a State Party shall take appropriate steps to inform as soon as possible other States, which appear to it to be concerned, of any theft, robbery or other unlawful taking of nuclear material or credible threat thereof and to inform, where appropriate, international organizations;
 - (b) as appropriate, the States Parties concerned shall exchange information with each other or international organizations with a view to protecting threatened nuclear material, verifying the integrity of the shipping container, or recovering unlawfully taken nuclear material and shall:
 - (i) co-ordinate their efforts through diplomatic and other agreed channels;
 - (ii) render assistance, if requested;
 - (iii) ensure the return of nuclear material stolen or missing as a consequence of the above-mentioned events.

The means of implementation of this co-operation shall be determined by the States Parties concerned.

3. States Parties shall co-operate and consult as appropriate, with each other directly or through international organizations, with a view to obtaining guidance on the design, maintenance and improvement of systems of physical protection of nuclear material in international transport.

Article 6

1. States Parties shall take appropriate measures consistent with their national law to protect the confidentiality of any information which they receive in confidence by virtue of the provisions of this Convention from another State Party or through participation in an activity carried out for the implementation of this Convention. If States Parties provide information to international organizations in confidence, steps shall be taken to ensure that the confidentiality of such information is protected.
2. States Parties shall not be required by this Convention to provide any information which they are not permitted to communicate pursuant to national law or which would jeopardize the security of the State concerned or the physical protection of nuclear material.

Article 7

1. The intentional commission of:
 - (a) an act without lawful authority which constitutes the receipt, possession, use, transfer, alteration, disposal or dispersal of nuclear material and which causes

or is likely to cause death or serious injury to any person or substantial damage to property;

- (b) a theft or robbery of nuclear material;
- (c) an embezzlement or fraudulent obtaining of nuclear material;
- (d) an act constituting a demand for nuclear material by threat or use of force or by any other form of intimidation;
- (e) a threat:
 - (i) to use nuclear material to cause death or serious injury to any person or substantial property damage, or
 - (ii) to commit an offence described in sub-paragraph (b) in order to compel a natural or legal person, international organization or State to do or to refrain from doing any act;
- (f) an attempt to commit any offence described in paragraphs (a), (b) or (c); and
- (g) an act which constitutes participation in any offence described in paragraphs (a) to (f)

shall be made a punishable offence by each State Party under its national law.

2. Each State Party shall make the offences described in this article punishable by appropriate penalties which take into account their grave nature.

Article 8

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 7 in the following cases:

- (a) when the offence is committed in the territory of that State or on board a ship or aircraft registered in that State;
- (b) when the alleged offender is a national of that State.

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over these offences in cases where the alleged offender is present in its territory and it does not extradite him pursuant to article 11 to any of the States mentioned in paragraph 1.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

4. In addition to the States Parties mentioned in paragraphs 1 and 2, each State Party may, consistent with international law, establish its jurisdiction over the offences set forth in article 7 when it is involved in international nuclear transport as the exporting or importing State.

Article 9

Upon being satisfied that the circumstances so warrant, the State Party in whose territory the alleged offender is present shall take appropriate measures, including detention, under its national law to ensure his presence for the purpose of prosecution or extradition. Measures taken according to this article shall be notified without delay to the

States required to establish jurisdiction pursuant to article 8 and, where appropriate, all other States concerned.

Article 10

The State Party in whose territory the alleged offender is present shall, if it does not extradite him, submit, without exception whatsoever and without undue delay, the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State.

Article 11

1. The offences in article 7 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include those offences as extraditable offences in every future extradition treaty to be concluded between them.
2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of those offences. Extradition shall be subject to the other conditions provided by the law of the requested State.
3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize those offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.
4. Each of the offences shall be treated, for the purpose of extradition between States Parties, as if it had been committed not only in the place in which it occurred but also in the territories of the States Parties required to establish their jurisdiction in accordance with paragraph 1 of article 8.

Article 12

Any person regarding whom proceedings are being carried out in connection with any of the offences set forth in article 7 shall be guaranteed fair treatment at all stages of the proceedings.

Article 13

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences set forth in article 7, including the supply of evidence at their disposal necessary for the proceedings. The law of the State requested shall apply in all cases.
2. The provisions of paragraph 1 shall not affect obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual assistance in criminal matters.

Article 14

1. Each State Party shall inform the depositary of its laws and regulations which give effect to this Convention. The depositary shall communicate such information periodically to all States Parties.
2. The State Party where an alleged offender is prosecuted shall, wherever practicable, first communicate the final outcome of the proceedings to the States directly concerned. The State Party shall also communicate the final outcome to the depositary who shall inform all States.

3. Where an offence involves nuclear material used for peaceful purposes in domestic use, storage or transport, and both the alleged offender and the nuclear material remain in the territory of the State Party in which the offence was committed, nothing in this Convention shall be interpreted as requiring that State Party to provide information concerning criminal proceedings arising out of such an offence.

Article 15

The Annexes constitute an integral part of this Convention.

Article 16

1. A conference of States Parties shall be convened by the depositary five years after the entry into force of this Convention to review the implementation of the Convention and its adequacy as concerns the preamble, the whole of the operative part and the annexes in the light of the then prevailing situation.

2. At intervals of not less than five years thereafter, the majority of States Parties may obtain, by submitting a proposal to this effect to the depositary, the convening of further conferences with the same objective.

Article 17

1. In the event of a dispute between two or more States Parties concerning the interpretation or application of this Convention, such States Parties shall consult with a view to the settlement of the dispute by negotiation, or by any other peaceful means of settling disputes acceptable to all parties to the dispute.

2. Any dispute of this character which cannot be settled in the manner prescribed in paragraph 1 shall, at the request of any party to such dispute, be submitted to arbitration or referred to the International Court of Justice for decision. Where a dispute is submitted to arbitration, if, within six months from the date of the request, the parties to the dispute are unable to agree on the organization of the arbitration, a party may request the President of the International Court of Justice or the Secretary-General of the United Nations to appoint one or more arbitrators. In case of conflicting requests by the parties to the dispute, the request to the Secretary-General of the United Nations shall have priority.

3. Each State Party may at the time of signature, ratification, acceptance or approval of this Convention or accession thereto declare that it does not consider itself bound by either or both of the dispute settlement procedures provided for in paragraph 2. The other States Parties shall not be bound by a dispute settlement procedure provided for in paragraph 2, with respect to a State Party which has made a reservation to that procedure.

4. Any State Party which has made a reservation in accordance with paragraph 3 may at any time withdraw that reservation by notification to the depositary.

Article 18

1. This Convention shall be open for signature by all States at the Headquarters of the International Atomic Energy Agency in Vienna and at the Headquarters of the United Nations in New York from 3 March 1980 until its entry into force.

2. This Convention is subject to ratification, acceptance or approval by the signatory States.

3. After its entry into force, this Convention will be open for accession by all States.

4. (a) This Convention shall be open for signature or accession by international organizations and regional organizations of an integration or other nature, provided that any such organization is constituted by sovereign States and has competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this Convention.
 - (b) In matters within their competence, such organizations shall, on their own behalf, exercise the rights and fulfil the responsibilities which this Convention attributes to States Parties.
 - (c) When becoming party to this Convention such an organization shall communicate to the depositary a declaration indicating which States are members thereof and which articles of this Convention do not apply to it.
 - (d) Such an organization shall not hold any vote additional to those of its Member States.
5. Instruments of ratification, acceptance, approval or accession shall be deposited with the depositary.

Article 19

1. This Convention shall enter into force on the thirtieth day following the date of deposit of the twenty-first instrument of ratification, acceptance or approval with the depositary.
2. For each State ratifying, accepting, approving or acceding to the Convention after the date of deposit of the twenty-first instrument of ratification, acceptance or approval, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification, acceptance, approval or accession.

Article 20

1. Without prejudice to article 16 a State Party may propose amendments to this Convention. The proposed amendment shall be submitted to the depositary who shall circulate it immediately to all States Parties. If a majority of States Parties request the depositary to convene a conference to consider the proposed amendments, the depositary shall invite all States Parties to attend such a conference to begin not sooner than thirty days after the invitations are issued. Any amendment adopted at the conference by a two-thirds majority of all States Parties shall be promptly circulated by the depositary to all States Parties.
2. The amendment shall enter into force for each State Party that deposits its instrument of ratification, acceptance or approval of the amendment on the thirtieth day after the date on which two thirds of the States Parties have deposited their instruments of ratification, acceptance or approval with the depositary. Thereafter, the amendment shall enter into force for any other State Party on the day on which that State Party deposits its instrument of ratification, acceptance or approval of the amendment.

Article 21

1. Any State Party may denounce this Convention by written notification to the depositary.
2. Denunciation shall take effect one hundred and eighty days following the date on which notification is received by the depositary.

Article 22

The depositary shall promptly notify all States of:

- (a) each signature of this Convention;
- (b) each deposit of an instrument of ratification, acceptance, approval or accession;
- (c) any reservation or withdrawal in accordance with article 17;
- (d) any communication made by an organization in accordance with paragraph 4(c) of article 18;
- (e) the entry into force of this Convention;
- (f) the entry into force of any amendment to this Convention; and
- (g) any denunciation made under article 21.

Article 23

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Director General of the International Atomic Energy Agency who shall send certified copies thereof to all States.

IN WITNESS WHEREOF, the undersigned, being duly authorized, have signed this Convention, opened for signature at Vienna and at New York on 3 March 1980.

ANNEX I

Levels of Physical Protection to be Applied in International Transport of Nuclear Material as Categorized in Annex II

1. Levels of physical protection for nuclear material during storage incidental to international nuclear transport include:

- (a) For Category III materials, storage within an area to which access is controlled;
- (b) For Category II materials, storage within an area under constant surveillance by guards or electronic devices, surrounded by a physical barrier with a limited number of points of entry under appropriate control or any area with an equivalent level of physical protection;
- (c) For Category I material, storage within a protected area as defined for Category II above, to which, in addition, access is restricted to persons whose trustworthiness has been determined, and which is under surveillance by guards who are in close communication with appropriate response forces. Specific measures taken in this context should have as their object the detection and prevention of any assault, unauthorized access or unauthorized removal of material.

2. Levels of physical protection for nuclear material during international transport include:

- (a) For Category II and III materials, transportation shall take place under special precautions including prior arrangements among sender, receiver, and carrier, and prior agreement between natural or legal persons subject to the jurisdiction and regulation of exporting and importing States, specifying time, place and procedures for transferring transport responsibility;
- (b) For Category I materials, transportation shall take place under special precautions identified above for transportation of Category II and III materials, and in addition, under constant surveillance by escorts and under conditions which assure close communication with appropriate response forces;
- (c) For natural uranium other than in the form of ore or ore-residue, transportation protection for quantities exceeding 500 kilograms uranium shall include advance notification of shipment specifying mode of transport, expected time of arrival and confirmation of receipt of shipment.

ANNEX II

TABLE: CATEGORIZATION OF NUCLEAR MATERIAL.

Material	Form	Category		
		I	II	III ^{c/}
1. Plutonium ^{a/}	Unirradiated ^{b/}	2 kg or more	Less than 2 kg but more than 500 g	500 g or less but more than 15 g
2. Uranium-235	Unirradiated ^{b/}			
	- uranium enriched to 20% ²³⁵ U or more	5 kg or more	Less than 5 kg but more than 1 kg	1 kg or less but more than 15 g
	- uranium enriched to 10% ²³⁵ U but less than 20%		10 kg or more	Less than 10 kg but more than 1 kg
	- uranium enriched above natural, but less than 10% ²³⁵ U			10 kg or more
3. Uranium-233	Unirradiated ^{b/}	2 kg or more	Less than 2 kg but more than 500 g	500 g or less but more than 15 g
4. Irradiated fuel			Depleted or natural uranium, thorium or low-enriched fuel (less than 10% fissile content) ^{d/e/}	

a/ All plutonium except that with isotopic concentration exceeding 80% in plutonium-238

b/ Material not irradiated in a reactor or material irradiated in a reactor but with a radiation level equal to or less than 100 rads/hour at one metre unshielded.

c/ Quantities not falling in Category III and natural uranium should be protected in accordance with prudent management practice.

d/ Although this level of protection is recommended, it would be open to States, upon evaluation of the specific circumstances, to assign a different category of physical protection.

e/ Other fuel which by virtue of its original fissile material content is classified as Category I and II before irradiation may be reduced one category level while the radiation level from the fuel exceeds 100 rads/hour at one metre unshielded.

FINAL ACT

Meeting of Governmental Representatives to Consider the Drafting of a Convention on the Physical Protection of Nuclear Material

1. The Meeting of Governmental Representatives to Consider the Drafting of a Convention on the Physical Protection of Nuclear Material met in Vienna at the Headquarters of the International Atomic Energy Agency from 31 October to 10 November 1977, from 10 to 20 April 1978, from 5 to 16 February and from 15 to 26 October 1979. Informal consultations between Governmental Representatives took place from 4 to 7 September 1978 and from 24 to 25 September 1979.

2. Representatives of 58 States and one organization participated, namely, representatives of:

Algeria	Korea, Republic of
Argentina	Libyan Arab Jamahiriya
Australia	Luxembourg
Austria	Mexico
Belgium	Netherlands
Brazil	Niger
Bulgaria	Norway
Canada	Pakistan
Chile	Panama
Colombia	Paraguay
Costa Rica	Peru
Cuba	Philippines
Czechoslovakia	Poland
Denmark	Qatar
Ecuador	Romania
Egypt	South Africa
Finland	Spain
France	Sweden
German Democratic Republic	Switzerland
Germany, Federal Republic of	Tunisia
Greece	Turkey
Guatemala	Union of Soviet Socialist Republics
Holy See	United Arab Emirates
Hungary	United Kingdom of Great Britain and Northern Ireland
India	United States of America
Indonesia	Venezuela
Ireland	Yugoslavia
Israel	Zaire
Italy	European Atomic Energy Community
Japan	

3. The following States and international organizations participated as observers:

Iran
Lebanon
Malaysia
Thailand
Nuclear Energy Agency of the Organisation for Economic Co-operation
and Development

4. The Meeting elected Ambassador D. L. Siazon Jr. (Philippines) as Chairman. For the meetings in April 1978 and February 1979 Mr. R. A. Estrada-Oyuela (Argentina) was elected Chairman.

5. The Meeting elected as Vice-Chairmen:

Mr. K. Willuhn of the German Democratic Republic, who at the meeting in February 1979 was succeeded by Mr. H. Rabold of the German Democratic Republic,

Mr. R. J. S. Harry, Netherlands, who at the meeting of October 1979 was succeeded by Mr. G. Dahlhoff of the Federal Republic of Germany;

Mr. R. A. Estrada-Oyuela, Argentina, who at the meeting of October 1979 was succeeded by Mr. L. A. Olivieri of Argentina.

6. Mr. L. W. Herron (Australia) was elected Rapporteur. For the meeting in October 1979 Mr. N. R. Smith (Australia) was elected Rapporteur.

7. Secretariat services were provided by the International Atomic Energy Agency. The Director General of the Agency was represented by the Director of the Legal Division of the Agency, Mr. D. M. Edwards and, in succession to him, Mr. L. W. Herron.

8. The Meeting set up the following groups:

(a) Working Group on Technical Issues

Chairman: Mr. R. J. S. Harry, Netherlands

(b) Working Group on Legal Issues

Chairman: Mr. R. A. Estrada-Oyuela, Argentina

(c) Working Group on Scope of Convention

Chairman: Mr. K. Willuhn, German Democratic Republic

(d) Drafting Committee

Chairman: Mr. De Castro Neves, Brazil

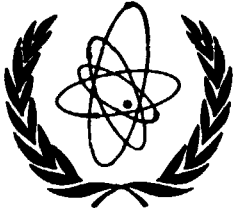
Members: Representatives of Australia, Brazil, Canada, Chile, Czechoslovakia, Egypt, France, Federal Republic of Germany, Italy, Japan, Mexico, Qatar, Tunisia, Union of Soviet Socialist Republics, United States of America.

9. The Meeting had before it the following documents:
- (a) Draft Convention on the Physical Protection of Nuclear Materials, Facilities and Transports, as contained in document CPNM/1;
 - (b) IAEA document INFCIRC/225/Rev. 1: The Physical Protection of Nuclear Material;
 - (c) IAEA document INFCIRC/254: Communications Received from Certain Member States regarding Guidelines for the Export of Nuclear Material, Equipment or Technology.
10. The Meeting completed consideration of a Convention, the text of which is attached as Annex I. [*] Certain delegations expressed reservations with regard to particular provisions in the text. These are recorded in the documents and in the Daily Reports of the Meeting. It was agreed that the text will be referred by delegations to their authorities for consideration.
11. The Meeting recommended that the text of the Convention be transmitted for information to the twenty-third General Conference of the International Atomic Energy Agency.
12. The Convention will, in accordance with its terms, be opened for signature from 3 March 1980 at the Headquarters of the International Atomic Energy Agency in Vienna and at the Headquarters of the United Nations in New York.

Vienna, 26 October 1979

(signed) D. L. Siazon Jr.

[*] Since the Convention has been opened for signature it is not attached here as Annex I; it is reproduced as the first part of this document.



International Atomic Energy Agency
INFORMATION CIRCULAR

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CONVENTION ON ASSISTANCE IN THE CASE
OF A NUCLEAR ACCIDENT OR RADIOLOGICAL EMERGENCY

1. The Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency was adopted by the General Conference at its special session, 24-26 September 1986, and was opened for signature at Vienna on 26 September 1986 and at New York on 6 October 1986.*/
2. The text of the Convention, taken from a certified copy, is reproduced herein for the information of all Members.

*/ The date of entry into force will be announced in an Addendum to this document.

CONVENTION ON ASSISTANCE IN THE CASE OF A NUCLEAR ACCIDENT OR RADIOLOGICAL EMERGENCY

THE STATES PARTIES TO THIS CONVENTION,

AWARE that nuclear activities are being carried out in a number of States,

NOTING that comprehensive measures have been and are being taken to ensure a high level of safety in nuclear activities, aimed at preventing nuclear accidents and minimizing the consequences of any such accident, should it occur,

DESIRING to strengthen further international co-operation in the safe development and use of nuclear energy,

CONVINCED of the need for an international framework which will facilitate the prompt provision of assistance in the event of a nuclear accident or radiological emergency to mitigate its consequences,

NOTING the usefulness of bilateral and multilateral arrangements on mutual assistance in this area,

NOTING the activities of the International Atomic Energy Agency in developing guidelines for mutual emergency assistance arrangements in connection with a nuclear accident or radiological emergency,

HAVE AGREED as follows:

Article 1

General provisions

- 1. The States Parties shall cooperate between themselves and with the International Atomic Energy Agency (hereinafter referred to as the "Agency") in accordance with the provisions of this Convention to facilitate prompt assistance in the event of a nuclear accident or radiological emergency to minimize its consequences and to protect life, property and the environment from the effects of radioactive releases.**
- 2. To facilitate such cooperation States Parties may agree on bilateral or multilateral arrangements or, where appropriate, a combination of these, for preventing or minimizing injury and damage which may result in the event of a nuclear accident or radiological emergency.**
- 3. The States Parties request the Agency, acting within the framework of its Statute, to use its best endeavours in accordance with the provisions of this Convention to promote, facilitate and support the cooperation between States Parties provided for in this Convention.**

Article 2

Provision of assistance

1. If a State Party needs assistance in the event of a nuclear accident or radiological emergency, whether or not such accident or emergency originates within its territory, jurisdiction or control, it may call for such assistance from any other State Party, directly or through the Agency, and from the Agency, or, where appropriate, from other international intergovernmental organizations (hereinafter referred to as "international organizations").
2. A State Party requesting assistance shall specify the scope and type of assistance required and, where practicable, provide the assisting party with such information as may be necessary for that party to determine the extent to which it is able to meet the request. In the event that it is not practicable for the requesting State Party to specify the scope and type of assistance required, the requesting State Party and the assisting party shall, in consultation, decide upon the scope and type of assistance required.
3. Each State Party to which a request for such assistance is directed shall promptly decide and notify the requesting State Party, directly or through the Agency, whether it is in a position to render the assistance requested, and the scope and terms of the assistance that might be rendered.
4. States Parties shall, within the limits of their capabilities, identify and notify the Agency of experts, equipment and materials which could be made available for the provision of assistance to other States Parties in the event of a nuclear accident or radiological emergency as well as the terms, especially financial, under which such assistance could be provided.
5. Any State Party may request assistance relating to medical treatment or temporary relocation into the territory of another State Party of people involved in a nuclear accident or radiological emergency.
6. The Agency shall respond, in accordance with its Statute and as provided for in this Convention, to a requesting State Party's or a Member State's request for assistance in the event of a nuclear accident or radiological emergency by:
 - (a) making available appropriate resources allocated for this purpose;
 - (b) transmitting promptly the request to other States and international organizations which, according to the Agency's information, may possess the necessary resources; and
 - (c) if so requested by the requesting State, co-ordinating the assistance at the international level which may thus become available.

Article 3

Direction and control of assistance

Unless otherwise agreed:

- (a) the overall direction, control, co-ordination and supervision of the assistance shall be the responsibility within its territory of the requesting State. The assisting party should, where the assistance involves personnel, designate in consultation with the requesting State, the

person who should be in charge of and retain immediate operational supervision over the personnel and the equipment provided by it. The designated person should exercise such supervision in cooperation with the appropriate authorities of the requesting State;

- (b) the requesting State shall provide, to the extent of its capabilities, local facilities and services for the proper and effective administration of the assistance. It shall also ensure the protection of personnel, equipment and materials brought into its territory by or on behalf of the assisting party for such purpose;
- (c) ownership of equipment and materials provided by either party during the periods of assistance shall be unaffected, and their return shall be ensured;
- (d) a State Party providing assistance in response to a request under paragraph 5 of article 2 shall co-ordinate that assistance within its territory.

Article 4

Competent authorities and points of contact

1. Each State Party shall make known to the Agency and to other States Parties, directly or through the Agency, its competent authorities and point of contact authorized to make and receive requests for and to accept offers of assistance. Such points of contact and a focal point within the Agency shall be available continuously.
2. Each State Party shall promptly inform the Agency of any changes that may occur in the information referred to in paragraph 1.
3. The Agency shall regularly and expeditiously provide to States Parties, Member States and relevant international organizations the information referred to in paragraphs 1 and 2.

Article 5

Functions of the Agency

The States Parties request the Agency, in accordance with paragraph 3 of article 1 and without prejudice to other provisions of this Convention, to:

- (a) collect and disseminate to States Parties and Member States information concerning:
 - (i) experts, equipment and materials which could be made available in the event of nuclear accidents or radiological emergencies;
 - (ii) methodologies, techniques and available results of research relating to response to nuclear accidents or radiological emergencies;
- (b) assist a State Party or a Member State when requested in any of the following or other appropriate matters:
 - (i) preparing both emergency plans in the case of nuclear accidents and radiological emergencies and the appropriate legislation;

- (ii) developing appropriate training programmes for personnel to deal with nuclear accidents and radiological emergencies;
 - (iii) transmitting requests for assistance and relevant information in the event of a nuclear accident or radiological emergency;
 - (iv) developing appropriate radiation monitoring programmes, procedures and standards;
 - (v) conducting investigations into the feasibility of establishing appropriate radiation monitoring systems;
- (c) make available to a State Party or a Member State requesting assistance in the event of a nuclear accident or radiological emergency appropriate resources allocated for the purpose of conducting an initial assessment of the accident or emergency;
 - (d) offer its good offices to the States Parties and Member States in the event of a nuclear accident or radiological emergency;
 - (e) establish and maintain liaison with relevant international organizations for the purposes of obtaining and exchanging relevant information and data, and make a list of such organizations available to States Parties, Member States and the aforementioned organizations.

Article 6

Confidentiality and public statements

1. The requesting State and the assisting party shall protect the confidentiality of any confidential information that becomes available to either of them in connection with the assistance in the event of a nuclear accident or radiological emergency. Such information shall be used exclusively for the purpose of the assistance agreed upon.

2. The assisting party shall make every effort to coordinate with the requesting State before releasing information to the public on the assistance provided in connection with a nuclear accident or radiological emergency.

Article 7

Reimbursement of costs

1. An assisting party may offer assistance without costs to the requesting State. When considering whether to offer assistance on such a basis, the assisting party shall take into account:

- (a) the nature of the nuclear accident or radiological emergency;
- (b) the place of origin of the nuclear accident or radiological emergency;
- (c) the needs of developing countries;
- (d) the particular needs of countries without nuclear facilities; and
- (e) any other relevant factors.

2. When assistance is provided wholly or partly on a reimbursement basis, the requesting State shall reimburse the assisting party for the costs incurred for the services rendered by persons or organizations acting on its behalf, and for all expenses in connection with the assistance to the extent that such expenses are not directly defrayed by the requesting State. Unless otherwise agreed, reimbursement shall be provided promptly after the assisting party has presented its request for reimbursement to the requesting State, and in respect of costs other than local costs, shall be freely transferrable.

3. Notwithstanding paragraph 2, the assisting party may at any time waive, or agree to the postponement of, the reimbursement in whole or in part. In considering such waiver or postponement, assisting parties shall give due consideration to the needs of developing countries.

Article 8

Privileges, immunities and facilities

1. The requesting State shall afford to personnel of the assisting party and personnel acting on its behalf the necessary privileges, immunities and facilities for the performance of their assistance functions.

2. The requesting State shall afford the following privileges and immunities to personnel of the assisting party or personnel acting on its behalf who have been duly notified to and accepted by the requesting State:

- (a) immunity from arrest, detention and legal process, including criminal, civil and administrative jurisdiction, of the requesting State, in respect of acts or omissions in the performance of their duties; and
- (b) exemption from taxation, duties or other charges, except those which are normally incorporated in the price of goods or paid for services rendered, in respect of the performance of their assistance functions.

3. The requesting State shall:

- (a) afford the assisting party exemption from taxation, duties or other charges on the equipment and property brought into the territory of the requesting State by the assisting party for the purpose of the assistance; and
- (b) provide immunity from seizure, attachment or requisition of such equipment and property.

4. The requesting State shall ensure the return of such equipment and property. If requested by the assisting party, the requesting State shall arrange, to the extent it is able to do so, for the necessary decontamination of recoverable equipment involved in the assistance before its return.

5. The requesting State shall facilitate the entry into, stay in and departure from its national territory of personnel notified pursuant to paragraph 2 and of equipment and property involved in the assistance.

6. Nothing in this article shall require the requesting State to provide its nationals or permanent residents with the privileges and immunities provided for in the foregoing paragraphs.

7. Without prejudice to the privileges and immunities, all beneficiaries enjoying such privileges and immunities under this article have a duty to respect the laws and regulations of the requesting State. They shall also have the duty not to interfere in the domestic affairs of the requesting State.

8. Nothing in this article shall prejudice rights and obligations with respect to privileges and immunities afforded pursuant to other international agreements or the rules of customary international law.

9. When signing, ratifying, accepting, approving or acceding to this Convention, a State may declare that it does not consider itself bound in whole or in part by paragraphs 2 and 3.

10. A State Party which has made a declaration in accordance with paragraph 9 may at any time withdraw it by notification to the depositary.

Article 9

Transit of personnel, equipment and property

Each State Party shall, at the request of the requesting State or the assisting party, seek to facilitate the transit through its territory of duly notified personnel, equipment and property involved in the assistance to and from the requesting State.

Article 10

Claims and compensation

1. The States Parties shall closely cooperate in order to facilitate the settlement of legal proceedings and claims under this article.

2. Unless otherwise agreed, a requesting State shall in respect of death or of injury to persons, damage to or loss of property, or damage to the environment caused within its territory or other area under its jurisdiction or control in the course of providing the assistance requested:

- (a) not bring any legal proceedings against the assisting party or persons or other legal entities acting on its behalf;
- (b) assume responsibility for dealing with legal proceedings and claims brought by third parties against the assisting party or against persons or other legal entities acting on its behalf;
- (c) hold the assisting party or persons or other legal entities acting on its behalf harmless in respect of legal proceedings and claims referred to in sub-paragraph (b); and
- (d) compensate the assisting party or persons or other legal entities acting on its behalf for:
 - (i) death of or injury to personnel of the assisting party or persons acting on its behalf;
 - (ii) loss of or damage to non-consumable equipment or materials related to the assistance;

except in cases of wilful misconduct by the individuals who caused the death, injury, loss or damage.

3. This article shall not prevent compensation or indemnity available under any applicable international agreement or national law of any State.

4. Nothing in this article shall require the requesting State to apply paragraph 2 in whole or in part to its nationals or permanent residents.

5. When signing, ratifying, accepting, approving or acceding to this Convention, a State may declare:

- (a) that it does not consider itself bound in whole or in part by paragraph 2;
- (b) that it will not apply paragraph 2 in whole or in part in cases of gross negligence by the individuals who caused the death, injury, loss or damage.

6. A State Party which has made a declaration in accordance with paragraph 5 may at any time withdraw it by notification to the depositary.

Article 11

Termination of assistance

The requesting State or the assisting party may at any time, after appropriate consultations and by notification in writing, request the termination of assistance received or provided under this Convention. Once such a request has been made, the parties involved shall consult with each other to make arrangements for the proper conclusion of the assistance.

Article 12

Relationship to other international agreements

This Convention shall not affect the reciprocal rights and obligations of States Parties under existing international agreements which relate to the matters covered by this Convention, or under future international agreements concluded in accordance with the object and purpose of this Convention.

Article 13

Settlement of disputes

1. In the event of a dispute between States Parties, or between a State Party and the Agency, concerning the interpretation or application of this Convention, the parties to the dispute shall consult with a view to the settlement of the dispute by negotiation or by any other peaceful means of settling disputes acceptable to them.

2. If a dispute of this character between States Parties cannot be settled within one year from the request for consultation pursuant to paragraph 1, it shall, at the request of any party to such dispute, be submitted to arbitration or referred to the International Court of Justice for decision. Where a dispute is submitted to arbitration, if, within six months from the date of the request, the parties to the dispute are unable to agree on the organization of the arbitration, a party may request the President of the International Court of Justice or the Secretary-General of the United Nations to appoint one or more arbitrators. In cases of conflicting requests by the parties to the dispute, the request to the Secretary-General of the United Nations shall have priority.

3. When signing, ratifying, accepting, approving or acceding to this Convention, a State may declare that it does not consider itself bound by either or both of the dispute settlement procedures

provided for in paragraph 2. The other States Parties shall not be bound by a dispute settlement procedure provided for in paragraph 2 with respect to a State Party for which such a declaration is in force.

4. A State Party which has made a declaration in accordance with paragraph 3 may at any time withdraw it by notification to the depositary.

Article 14

Entry into force

1. This Convention shall be open for signature by all States and Namibia, represented by the United Nations Council for Namibia, at the Headquarters of the International Atomic Energy Agency in Vienna and at the Headquarters of the United Nations in New York, from 26 September 1986 and 6 October 1986 respectively, until its entry into force or for twelve months, whichever period is longer.

2. A State and Namibia, represented by the United Nations Council for Namibia, may express its consent to be bound by this Convention either by signature, or by deposit of an instrument of ratification, acceptance or approval following signature made subject to ratification, acceptance or approval, or by deposit of an instrument of accession. The instruments of ratification, acceptance, approval or accession shall be deposited with the depositary.

3. This Convention shall enter into force thirty days after consent to be bound has been expressed by three States.

4. For each State expressing consent to be bound by this Convention after its entry into force, this Convention shall enter into force for that State thirty days after the date of expression of consent.

5. (a) This Convention shall be open for accession, as provided for in this article, by international organizations and regional integration organizations constituted by sovereign States, which have competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this Convention.

(b) In matters within their competence such organizations shall, on their own behalf, exercise the rights and fulfil the obligations which this Convention attributes to States Parties.

(c) When depositing its instrument of accession, such an organization shall communicate to the depositary a declaration indicating the extent of its competence in respect of matters covered by this Convention.

(d) Such an organization shall not hold any vote additional to those of its Member States.

Article 15

Provisional application

A State may, upon signature or at any later date before this Convention enters into force for it, declare that it will apply this Convention provisionally.

Article 16

Amendments

1. A State Party may propose amendments to this Convention. The proposed amendment shall be submitted to the depositary who shall circulate it immediately to all other States Parties.
2. If a majority of the States Parties request the depositary to convene a conference to consider the proposed amendments, the depositary shall invite all States Parties to attend such a conference to begin not sooner than thirty days after the invitations are issued. Any amendment adopted at the conference by a two-thirds majority of all States Parties shall be laid down in a protocol which is open to signature in Vienna and New York by all States Parties.
3. The protocol shall enter into force thirty days after consent to be bound has been expressed by three States. For each State expressing consent to be bound by the protocol after its entry into force, the protocol shall enter into force for that State thirty days after the date of expression of consent.

Article 17

Denunciation

1. A State Party may denounce this Convention by written notification to the depositary.
2. Denunciation shall take effect one year following the date on which the notification is received by the depositary.

Article 18

Depositary

1. The Director General of the Agency shall be the depositary of this Convention.
2. The Director General of the Agency shall promptly notify States Parties and all other States of:
 - (a) each signature of this Convention or any protocol of amendment;
 - (b) each deposit of an instrument of ratification, acceptance, approval or accession concerning this Convention or any protocol of amendment;
 - (c) any declaration or withdrawal thereof in accordance with articles 8, 10 and 13;
 - (d) any declaration of provisional application of this Convention in accordance with article 15;
 - (e) the entry into force of this Convention and of any amendment thereto; and
 - (f) any denunciation made under article 17.

Article 19

Authentic texts and certified copies

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Director General of the International Atomic Energy Agency who shall send certified copies to States Parties and all other States.

IN WITNESS WHEREOF the undersigned, being duly authorized, have signed this Convention, open for signature as provided for in paragraph 1 of article 14.

ADOPTED by the General Conference of the International Atomic Energy Agency meeting in special session at Vienna on the twenty-sixth day of September one thousand nine hundred and eighty-six.



International Atomic Energy Agency

INFORMATION CIRCULAR

IAEA-INFCIRC/335

18 November 1986

GENERAL Distr.

Original: ARABIC, CHINESE, ENGLISH,
FRENCH, RUSSIAN and SPANIS

CONVENTION ON EARLY NOTIFICATION OF A NUCLEAR ACCIDENT

1. The Convention on Early Notification of a Nuclear Accident was adopted by the General Conference at its special session, 24-26 September 1986, and was opened for signature at Vienna on 26 September 1986 and at New York on 6 October 1986. It entered into force on 27 October 1986, i.e. thirty days after the date (26 September 1986) on which three States expressed their consent to be bound by the Convention, as required under Article 12 thereof.
2. The text of the Convention, taken from a certified copy, is reproduced herein for the information of all Members.

CONVENTION ON EARLY NOTIFICATION OF A NUCLEAR ACCIDENT

THE STATES PARTIES TO THIS CONVENTION,

AWARE that nuclear activities are being carried out in a number of States,

NOTING that comprehensive measures have been and are being taken to ensure a high level of safety in nuclear activities, aimed at preventing nuclear accidents and minimizing the consequences of any such accident, should it occur,

DESIRING to strengthen further international co-operation in the safe development and use of nuclear energy,

CONVINCED of the need for States to provide relevant information about nuclear accidents as early as possible in order that transboundary radiological consequences can be minimized,

NOTING the usefulness of bilateral and multilateral arrangements on information exchange in this area,

HAVE AGREED as follows:

Article 1

Scope of application

1. This Convention shall apply in the event of any accident involving facilities or activities of a State Party or of persons or legal entities under its jurisdiction or control, referred to in paragraph 2 below, from which a release of radioactive material occurs or is likely to occur and which has resulted or may result in an international transboundary release that could be of radiological safety significance for another State.
2. The facilities and activities referred to in paragraph 1 are the following:
 - (a) any nuclear reactor wherever located;
 - (b) any nuclear fuel cycle facility;
 - (c) any radioactive waste management facility;
 - (d) the transport and storage of nuclear fuels or radioactive wastes;
 - (e) the manufacture, use, storage, disposal and transport of radioisotopes for agricultural, industrial, medical and related scientific and research purposes; and
 - (f) the use of radioisotopes for power generation in space objects.

Article 2

Notification and information

In the event of an accident specified in article 1 (hereinafter referred to as a "nuclear accident"), the State Party referred to in that article shall:

- (a) forthwith notify, directly or through the International Atomic Energy Agency (hereinafter referred to as the "Agency"), those States which are or may be physically affected as specified in article 1 and the Agency of the nuclear accident, its nature, the time of its occurrence and its exact location where appropriate; and
- (b) promptly provide the States referred to in sub-paragraph (a), directly or through the Agency, and the Agency with such available information relevant to minimizing the radiological consequences in those States, as specified in article 5.

Article 3

Other Nuclear Accidents

With a view to minimizing the radiological consequences, States Parties may notify in the event of nuclear accidents other than those specified in article 1.

Article 4

Functions of the Agency

The Agency shall:

- (a) forthwith inform States Parties, Member States, other States which are or may be physically affected as specified in article 1 and relevant international intergovernmental organizations (hereinafter referred to as "international organizations") of a notification received pursuant to sub-paragraph (a) of article 2; and
- (b) promptly provide any State Party, Member State or relevant international organization, upon request, with the information received pursuant to sub-paragraph (b) of article 2.

Article 5

Information to be provided

1. The information to be provided pursuant to sub-paragraph (b) of article 2 shall comprise the following data as then available to the notifying State Party:

- (a) the time, exact location where appropriate, and the nature of the nuclear accident;
- (b) the facility or activity involved;

- (c) the assumed or established cause and the foreseeable development of the nuclear accident relevant to the transboundary release of the radioactive materials;
 - (d) the general characteristics of the radioactive release, including, as far as is practicable and appropriate, the nature, probable physical and chemical form and the quantity, composition and effective height of the radioactive release;
 - (e) information on current and forecast meteorological and hydrological conditions, necessary for forecasting the transboundary release of the radioactive materials;
 - (f) the results of environmental monitoring relevant to the transboundary release of the radioactive materials;
 - (g) the off-site protective measures taken or planned;
 - (h) the predicted behaviour over time of the radioactive release.
2. Such information shall be supplemented at appropriate intervals by further relevant information on the development of the emergency situation, including its foreseeable or actual termination.
3. Information received pursuant to sub-paragraph (b) of article 2 may be used without restriction, except when such information is provided in confidence by the notifying State Party.

Article 6

Consultations

A State Party providing information pursuant to sub-paragraph (b) of article 2 shall, as far as is reasonably practicable, respond promptly to a request for further information or consultations sought by an affected State Party with a view to minimizing the radiological consequences in that State.

Article 7

Competent authorities and points of contact

1. Each State Party shall make known to the Agency and to other States Parties, directly or through the Agency, its competent authorities and point of contact responsible for issuing and receiving the notification and information referred to in article 2. Such points of contact and a focal point within the Agency shall be available continuously.
2. Each State Party shall promptly inform the Agency of any changes that may occur in the information referred to in paragraph 1.
3. The Agency shall maintain an up-to-date list of such national authorities and points of contact as well as points of contact of relevant international organizations and shall provide it to States Parties and Member States and to relevant international organizations.

Article 8

Assistance to States Parties

The Agency shall, in accordance with its Statute and upon a request of a State Party which does not have nuclear activities itself and borders on a State having an active nuclear programme but not Party, conduct investigations into the feasibility and establishment of an appropriate radiation monitoring system in order to facilitate the achievement of the objectives of this Convention.

Article 9

Bilateral and multilateral arrangements

In furtherance of their mutual interests, States Parties may consider, where deemed appropriate, the conclusion of bilateral or multilateral arrangements relating to the subject matter of this Convention.

Article 10

Relationship to other international agreements

This Convention shall not affect the reciprocal rights and obligations of States Parties under existing international agreements which relate to the matters covered by this Convention, or under future international agreements concluded in accordance with the object and purpose of this Convention.

Article 11

Settlement of disputes

1. In the event of a dispute between States Parties, or between a State Party and the Agency, concerning the interpretation or application of this Convention, the parties to the dispute shall consult with a view to the settlement of the dispute by negotiation or by any other peaceful means of settling disputes acceptable to them.
2. If a dispute of this character between States Parties cannot be settled within one year from the request for consultation pursuant to paragraph 1, it shall, at the request of any party to such dispute, be submitted to arbitration or referred to the International Court of Justice for decision. Where a dispute is submitted to arbitration, if, within six months from the date of the request, the parties to the dispute are unable to agree on the organization of the arbitration, a party may request the President of the International Court of Justice or the Secretary-General of the United Nations to appoint one or more arbitrators. In cases of conflicting requests by the parties to the dispute, the request to the Secretary-General of the United Nations shall have priority.
3. When signing, ratifying, accepting, approving or acceding to this Convention, a State may declare that it does not consider itself bound by either or both of the dispute settlement procedure provided for in paragraph 2. The other States Parties shall not be bound by a dispute settlement procedure provided for in paragraph 2 with respect to a State Party for which such a declaration is in force.

4. A State Party which has made a declaration in accordance with paragraph 3 may at any time withdraw it by notification to the depositary.

Article 12

Entry into force

1. This Convention shall be open for signature by all States and Namibia, represented by the United Nations Council for Namibia, at the Headquarters of the International Atomic Energy Agency in Vienna and at the Headquarters of the United Nations in New York, from 26 September 1986 and 6 October 1986 respectively, until its entry into force or for twelve months, whichever period is longer.

2. A State and Namibia, represented by the United Nations Council for Namibia, may express its consent to be bound by this Convention either by signature, or by deposit of an instrument of ratification, acceptance or approval following signature made subject to ratification, acceptance or approval, or by deposit of an instrument of accession. The instruments of ratification, acceptance, approval or accession shall be deposited with the depositary.

3. This Convention shall enter into force thirty days after consent to be bound has been expressed by three States.

4. For each State expressing consent to be bound by this Convention after its entry into force, this Convention shall enter into force for that State thirty days after the date of expression of consent.

5. (a) This Convention shall be open for accession, as provided for in this article, by international organizations and regional integration organizations constituted by sovereign States, which have competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this Convention.

(b) In matters within their competence such organizations shall, on their own behalf, exercise the rights and fulfil the obligations which this Convention attributes to States Parties.

(c) When depositing its instrument of accession, such an organization shall communicate to the depositary a declaration indicating the extent of its competence in respect of matters covered by this Convention.

(d) Such an organization shall not hold any vote additional to those of its Member States.

Article 13

Provisional application

A State may, upon signature or at any later date before this Convention enters into force for it, declare that it will apply this Convention provisionally.

Article 14

Amendments

1. A State Party may propose amendments to this Convention. The proposed amendment shall be submitted to the depositary who shall circulate it immediately to all other States Parties.
2. If a majority of the States Parties request the depositary to convene a conference to consider the proposed amendments, the depositary shall invite all States Parties to attend such a conference to begin not sooner than thirty days after the invitations are issued. Any amendment adopted at the conference by a two-thirds majority of all States Parties shall be laid down in a protocol which is open to signature in Vienna and New York by all States Parties.
3. The protocol shall enter into force thirty days after consent to be bound has been expressed by three States. For each State expressing consent to be bound by the protocol after its entry into force, the protocol shall enter into force for that State thirty days after the date of expression of consent.

Article 15

Denunciation

1. A State Party may denounce this Convention by written notification to the depositary.
2. Denunciation shall take effect one year following the date on which the notification is received by the depositary.

Article 16

Depositary

1. The Director General of the Agency shall be the depositary of this Convention.
2. The Director General of the Agency shall promptly notify States Parties and all other States of:
 - (a) each signature of this Convention or any protocol of amendment;
 - (b) each deposit of an instrument of ratification, acceptance, approval or accession concerning this Convention or any protocol of amendment;
 - (c) any declaration or withdrawal thereof in accordance with article 11;
 - (d) any declaration of provisional application of this Convention in accordance with article 13;
 - (e) the entry into force of this Convention and of any amendment thereto; and
 - (f) any denunciation made under article 15.

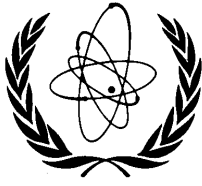
Article 17

Authentic texts and certified copies

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Director General of the International Atomic Energy Agency who shall send certified copies to States Parties and all other States.

IN WITNESS WHEREOF the undersigned, being duly authorized, have signed this Convention, open for signature as provided for in paragraph 1 of article 12.

ADOPTED by the General Conference of the International Atomic Energy Agency meeting in special session at Vienna on the twenty-sixth day of September one thousand nine hundred and eighty-six.



International Atomic Energy Agency
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SPANISH

**JOINT CONVENTION ON THE SAFETY OF SPENT FUEL MANAGEMENT
AND ON THE SAFETY OF RADIOACTIVE WASTE MANAGEMENT**

Latest Status

1. The Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management was adopted on 5 September 1997 by a Diplomatic Conference convened by the International Atomic Energy Agency at its headquarters from 1 to 5 September 1997. The Joint Convention was opened for signature at Vienna on 29 September 1997 during the forty-first session of the General Conference of the International Atomic Energy Agency and will remain open for signature until its entry into force.
2. Pursuant to article 40, the Joint Convention will enter into force on the ninetieth day after the date of deposit with the Depositary of the twenty-fifth instrument of ratification, acceptance or approval, including the instruments of fifteen States each having an operational nuclear power plant.
3. The text of the Convention, as adopted, is attached hereto for the information of Member States.

**JOINT CONVENTION
ON THE SAFETY OF SPENT FUEL MANAGEMENT AND
ON THE SAFETY OF RADIOACTIVE WASTE MANAGEMENT**

**JOINT CONVENTION
ON THE SAFETY OF SPENT FUEL MANAGEMENT AND
ON THE SAFETY OF RADIOACTIVE WASTE MANAGEMENT**

PREAMBLE

CHAPTER 1 OBJECTIVES, DEFINITIONS AND SCOPE OF APPLICATION

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- ARTICLE 2 DEFINITIONS
- ARTICLE 3 SCOPE OF APPLICATION

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CHAPTER 3 SAFETY OF RADIOACTIVE WASTE MANAGEMENT

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PREAMBLE

The Contracting Parties

- (i) Recognizing that the operation of nuclear reactors generates spent fuel and radioactive waste and that other applications of nuclear technologies also generate radioactive waste;
- (ii) Recognizing that the same safety objectives apply both to spent fuel and radioactive waste management;
- (iii) Reaffirming the importance to the international community of ensuring that sound practices are planned and implemented for the safety of spent fuel and radioactive waste management;
- (iv) Recognizing the importance of informing the public on issues regarding the safety of spent fuel and radioactive waste management;
- (v) Desiring to promote an effective nuclear safety culture worldwide;
- (vi) Reaffirming that the ultimate responsibility for ensuring the safety of spent fuel and radioactive waste management rests with the State;
- (vii) Recognizing that the definition of a fuel cycle policy rests with the State, some States considering spent fuel as a valuable resource that may be reprocessed, others electing to dispose of it;
- (viii) Recognizing that spent fuel and radioactive waste excluded from the present Convention because they are within military or defence programmes should be managed in accordance with the objectives stated in this Convention;

- (ix) Affirming the importance of international co-operation in enhancing the safety of spent fuel and radioactive waste management through bilateral and multilateral mechanisms, and through this incentive Convention;
- (x) Mindful of the needs of developing countries, and in particular the least developed countries, and of States with economies in transition and of the need to facilitate existing mechanisms to assist in the fulfillment of their rights and obligations set out in this incentive Convention;
- (xi) Convinced that radioactive waste should, as far as is compatible with the safety of the management of such material, be disposed of in the State in which it was generated, whilst recognizing that, in certain circumstances, safe and efficient management of spent fuel and radioactive waste might be fostered through agreements among Contracting Parties to use facilities in one of them for the benefit of the other Parties, particularly where waste originates from joint projects;
- (xii) Recognizing that any State has the right to ban import into its territory of foreign spent fuel and radioactive waste;
- (xiii) Keeping in mind the Convention on Nuclear Safety (1994), the Convention on Early Notification of a Nuclear Accident (1986), the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency (1986), the Convention on the Physical Protection of Nuclear Material (1980), the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter as amended (1994) and other relevant international instruments;
- (xiv) Keeping in mind the principles contained in the interagency "International Basic Safety Standards for Protection against Ionizing Radiation and for the Safety of Radiation Sources" (1996), in the IAEA Safety Fundamentals entitled "The Principles of Radioactive Waste Management" (1995), and in the existing international standards relating to the safety of the transport of radioactive materials;

- (xv) Recalling Chapter 22 of Agenda 21 by the United Nations Conference on Environment and Development in Rio de Janeiro adopted in 1992, which reaffirms the paramount importance of the safe and environmentally sound management of radioactive waste;

- (xvi) Recognizing the desirability of strengthening the international control system applying specifically to radioactive materials as referred to in Article 1(3) of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (1989);

Have agreed as follows:

CHAPTER 1. OBJECTIVES, DEFINITIONS AND SCOPE OF APPLICATION

ARTICLE 1. OBJECTIVES

The objectives of this Convention are:

- (i) to achieve and maintain a high level of safety worldwide in spent fuel and radioactive waste management, through the enhancement of national measures and international co-operation, including where appropriate, safety-related technical co-operation;
- (ii) to ensure that during all stages of spent fuel and radioactive waste management there are effective defenses against potential hazards so that individuals, society and the environment are protected from harmful effects of ionizing radiation, now and in the future, in such a way that the needs and aspirations of the present generation are met without compromising the ability of future generations to meet their needs and aspirations;
- (iii) to prevent accidents with radiological consequences and to mitigate their consequences should they occur during any stage of spent fuel or radioactive waste management.

ARTICLE 2. DEFINITIONS

For the purposes of this Convention:

- (a) "*closure*" means the completion of all operations at some time after the emplacement of spent fuel or radioactive waste in a disposal facility. This includes the final engineering or other work required to bring the facility to a condition that will be safe in the long term;

- (b) *"decommissioning"* means all steps leading to the release of a nuclear facility, other than a disposal facility, from regulatory control. These steps include the processes of decontamination and dismantling;
- (c) *"discharges"* means planned and controlled releases into the environment, as a legitimate practice, within limits authorized by the regulatory body, of liquid or gaseous radioactive materials that originate from regulated nuclear facilities during normal operation;
- (d) *"disposal"* means the emplacement of spent fuel or radioactive waste in an appropriate facility without the intention of retrieval;
- (e) *"licence"* means any authorization, permission or certification granted by a regulatory body to carry out any activity related to management of spent fuel or of radioactive waste;
- (f) *"nuclear facility"* means a civilian facility and its associated land, buildings and equipment in which radioactive materials are produced, processed, used, handled, stored or disposed of on such a scale that consideration of safety is required;
- (g) *"operating lifetime"* means the period during which a spent fuel or a radioactive waste management facility is used for its intended purpose. In the case of a disposal facility, the period begins when spent fuel or radioactive waste is first emplaced in the facility and ends upon closure of the facility;
- (h) *"radioactive waste"* means radioactive material in gaseous, liquid or solid form for which no further use is foreseen by the Contracting Party or by a natural or legal person whose decision is accepted by the Contracting Party, and which is controlled as radioactive waste by a regulatory body under the legislative and regulatory framework of the Contracting Party;
- (i) *"radioactive waste management"* means all activities, including decommissioning activities, that relate to the handling, pretreatment, treatment, conditioning, storage, or disposal of

radioactive waste, excluding off-site transportation. It may also involve discharges;

- (j) *"radioactive waste management facility"* means any facility or installation the primary purpose of which is radioactive waste management, including a nuclear facility in the process of being decommissioned only if it is designated by the Contracting Party as a radioactive waste management facility;
- (k) *"regulatory body"* means any body or bodies given the legal authority by the Contracting Party to regulate any aspect of the safety of spent fuel or radioactive waste management including the granting of licences;
- (l) *"reprocessing"* means a process or operation, the purpose of which is to extract radioactive isotopes from spent fuel for further use;
- (m) *"sealed source"* means radioactive material that is permanently sealed in a capsule or closely bonded and in a solid form, excluding reactor fuel elements;
- (n) *"spent fuel"* means nuclear fuel that has been irradiated in and permanently removed from a reactor core;
- (o) *"spent fuel management"* means all activities that relate to the handling or storage of spent fuel, excluding off-site transportation. It may also involve discharges;
- (p) *"spent fuel management facility"* means any facility or installation the primary purpose of which is spent fuel management;
- (q) *"State of destination"* means a State to which a transboundary movement is planned or takes place;
- (r) *"State of origin"* means a State from which a transboundary movement is planned to be initiated or is initiated;

- (s) *"State of transit"* means any State, other than a State of origin or a State of destination, through whose territory a transboundary movement is planned or takes place;
- (t) *"storage"* means the holding of spent fuel or of radioactive waste in a facility that provides for its containment, with the intention of retrieval;
- (u) *"transboundary movement"* means any shipment of spent fuel or of radioactive waste from a State of origin to a State of destination.

ARTICLE 3. SCOPE OF APPLICATION

1. This Convention shall apply to the safety of spent fuel management when the spent fuel results from the operation of civilian nuclear reactors. Spent fuel held at reprocessing facilities as part of a reprocessing activity is not covered in the scope of this Convention unless the Contracting Party declares reprocessing to be part of spent fuel management.

2. This Convention shall also apply to the safety of radioactive waste management when the radioactive waste results from civilian applications. However, this Convention shall not apply to waste that contains only naturally occurring radioactive materials and that does not originate from the nuclear fuel cycle, unless it constitutes a disused sealed source or it is declared as radioactive waste for the purposes of this Convention by the Contracting Party.

3. This Convention shall not apply to the safety of management of spent fuel or radioactive waste within military or defence programmes, unless declared as spent fuel or radioactive waste for the purposes of this Convention by the Contracting Party. However, this Convention shall apply to the safety of management of spent fuel and radioactive waste from military or defence programmes if and when such materials are transferred permanently to and managed within exclusively civilian programmes.

4. This Convention shall also apply to discharges as provided for in Articles 4, 7, 11, 14, 24 and 26.

CHAPTER 2 SAFETY OF SPENT FUEL MANAGEMENT

ARTICLE 4. GENERAL SAFETY REQUIREMENTS

Each Contracting Party shall take the appropriate steps to ensure that at all stages of spent fuel management, individuals, society and the environment are adequately protected against radiological hazards.

In so doing, each Contracting Party shall take the appropriate steps to:

- (i) ensure that criticality and removal of residual heat generated during spent fuel management are adequately addressed;
- (ii) ensure that the generation of radioactive waste associated with spent fuel management is kept to the minimum practicable, consistent with the type of fuel cycle policy adopted;
- (iii) take into account interdependencies among the different steps in spent fuel management;
- (iv) provide for effective protection of individuals, society and the environment, by applying at the national level suitable protective methods as approved by the regulatory body, in the framework of its national legislation which has due regard to internationally endorsed criteria and standards;
- (v) take into account the biological, chemical and other hazards that may be associated with spent fuel management;
- (vi) strive to avoid actions that impose reasonably predictable impacts on future generations greater than those permitted for the current generation;
- (vii) aim to avoid imposing undue burdens on future generations.

ARTICLE 5. EXISTING FACILITIES

Each Contracting Party shall take the appropriate steps to review the safety of any spent fuel management facility existing at the time the Convention enters into force for that Contracting Party and to ensure that, if necessary, all reasonably practicable improvements are made to upgrade the safety of such a facility.

ARTICLE 6. SITING OF PROPOSED FACILITIES

1. Each Contracting Party shall take the appropriate steps to ensure that procedures are established and implemented for a proposed spent fuel management facility:

- (i) to evaluate all relevant site-related factors likely to affect the safety of such a facility during its operating lifetime;
- (ii) to evaluate the likely safety impact of such a facility on individuals, society and the environment;
- (iii) to make information on the safety of such a facility available to members of the public;
- (iv) to consult Contracting Parties in the vicinity of such a facility, insofar as they are likely to be affected by that facility, and provide them, upon their request, with general data relating to the facility to enable them to evaluate the likely safety impact of the facility upon their territory.

2. In so doing, each Contracting Party shall take the appropriate steps to ensure that such facilities shall not have unacceptable effects on other Contracting Parties by being sited in accordance with the general safety requirements of Article 4.

ARTICLE 7. DESIGN AND CONSTRUCTION OF FACILITIES

Each Contracting Party shall take the appropriate steps to ensure that:

- (i) the design and construction of a spent fuel management facility provide for suitable measures to limit possible radiological impacts on individuals, society and the environment, including those from discharges or uncontrolled releases;
- (ii) at the design stage, conceptual plans and, as necessary, technical provisions for the decommissioning of a spent fuel management facility are taken into account;
- (iii) the technologies incorporated in the design and construction of a spent fuel management facility are supported by experience, testing or analysis.

ARTICLE 8. ASSESSMENT OF SAFETY OF FACILITIES

Each Contracting Party shall take the appropriate steps to ensure that:

- (i) before construction of a spent fuel management facility, a systematic safety assessment and an environmental assessment appropriate to the hazard presented by the facility and covering its operating lifetime shall be carried out;
- (ii) before the operation of a spent fuel management facility, updated and detailed versions of the safety assessment and of the environmental assessment shall be prepared when deemed necessary to complement the assessments referred to in paragraph (i).

ARTICLE 9. OPERATION OF FACILITIES

Each Contracting Party shall take the appropriate steps to ensure that:

- (i) the licence to operate a spent fuel management facility is based upon appropriate assessments as specified in Article 8 and is conditional on the completion of a commissioning programme

demonstrating that the facility, as constructed, is consistent with design and safety requirements;

- (ii) operational limits and conditions derived from tests, operational experience and the assessments, as specified in Article 8, are defined and revised as necessary;
- (iii) operation, maintenance, monitoring, inspection and testing of a spent fuel management facility are conducted in accordance with established procedures;
- (iv) engineering and technical support in all safety-related fields are available throughout the operating lifetime of a spent fuel management facility;
- (v) incidents significant to safety are reported in a timely manner by the holder of the licence to the regulatory body;
- (vi) programmes to collect and analyse relevant operating experience are established and that the results are acted upon, where appropriate;
- (vii) decommissioning plans for a spent fuel management facility are prepared and updated, as necessary, using information obtained during the operating lifetime of that facility, and are reviewed by the regulatory body.

ARTICLE 10. DISPOSAL OF SPENT FUEL

If, pursuant to its own legislative and regulatory framework, a Contracting Party has designated spent fuel for disposal, the disposal of such spent fuel shall be in accordance with the obligations of Chapter 3 relating to the disposal of radioactive waste.

CHAPTER 3 SAFETY OF RADIOACTIVE WASTE MANAGEMENT

ARTICLE 11. GENERAL SAFETY REQUIREMENTS

Each Contracting Party shall take the appropriate steps to ensure that at all stages of radioactive waste management individuals, society and the environment are adequately protected against radiological and other hazards.

In so doing, each Contracting Party shall take the appropriate steps to:

- (i) ensure that criticality and removal of residual heat generated during radioactive waste management are adequately addressed;
- (ii) ensure that the generation of radioactive waste is kept to the minimum practicable;
- (iii) take into account interdependencies among the different steps in radioactive waste management;
- (iv) provide for effective protection of individuals, society and the environment, by applying at the national level suitable protective methods as approved by the regulatory body, in the framework of its national legislation which has due regard to internationally endorsed criteria and standards;
- (v) take into account the biological, chemical and other hazards that may be associated with radioactive waste management;
- (vi) strive to avoid actions that impose reasonably predictable impacts on future generations greater than those permitted for the current generation;
- (vii) aim to avoid imposing undue burdens on future generations.

ARTICLE 12. EXISTING FACILITIES AND PAST PRACTICES

Each Contracting Party shall in due course take the appropriate steps to review:

- (i) the safety of any radioactive waste management facility existing at the time the Convention enters into force for that Contracting Party and to ensure that, if necessary, all reasonably practicable improvements are made to upgrade the safety of such a facility;
- (ii) the results of past practices in order to determine whether any intervention is needed for reasons of radiation protection bearing in mind that the reduction in detriment resulting from the reduction in dose should be sufficient to justify the harm and the costs, including the social costs, of the intervention.

ARTICLE 13. SITING OF PROPOSED FACILITIES

1. Each Contracting Party shall take the appropriate steps to ensure that procedures are established and implemented for a proposed radioactive waste management facility:

- (i) to evaluate all relevant site-related factors likely to affect the safety of such a facility during its operating lifetime as well as that of a disposal facility after closure;
- (ii) to evaluate the likely safety impact of such a facility on individuals, society and the environment, taking into account possible evolution of the site conditions of disposal facilities after closure;
- (iii) to make information on the safety of such a facility available to members of the public;
- (iv) to consult Contracting Parties in the vicinity of such a facility, insofar as they are likely to be affected by that facility, and provide them, upon their request, with

general data relating to the facility to enable them to evaluate the likely safety impact of the facility upon their territory.

2. In so doing, each Contracting Party shall take the appropriate steps to ensure that such facilities shall not have unacceptable effects on other Contracting Parties by being sited in accordance with the general safety requirements of Article 11.

ARTICLE 14. DESIGN AND CONSTRUCTION OF FACILITIES

Each Contracting Party shall take the appropriate steps to ensure that:

- (i) the design and construction of a radioactive waste management facility provide for suitable measures to limit possible radiological impacts on individuals, society and the environment, including those from discharges or uncontrolled releases;
- (ii) at the design stage, conceptual plans and, as necessary, technical provisions for the decommissioning of a radioactive waste management facility other than a disposal facility are taken into account;
- (iii) at the design stage, technical provisions for the closure of a disposal facility are prepared;
- (iv) the technologies incorporated in the design and construction of a radioactive waste management facility are supported by experience, testing or analysis.

ARTICLE 15. ASSESSMENT OF SAFETY OF FACILITIES

Each Contracting Party shall take the appropriate steps to ensure that:

- (i) before construction of a radioactive waste management facility, a systematic safety assessment and an environmental assessment appropriate to the hazard presented by the facility and covering its operating lifetime shall be carried out;

- (ii) in addition, before construction of a disposal facility, a systematic safety assessment and an environmental assessment for the period following closure shall be carried out and the results evaluated against the criteria established by the regulatory body;
- (iii) before the operation of a radioactive waste management facility, updated and detailed versions of the safety assessment and of the environmental assessment shall be prepared when deemed necessary to complement the assessments referred to in paragraph (i).

ARTICLE 16. OPERATION OF FACILITIES

Each Contracting Party shall take the appropriate steps to ensure that:

- (i) the licence to operate a radioactive waste management facility is based upon appropriate assessments as specified in Article 15 and is conditional on the completion of a commissioning programme demonstrating that the facility, as constructed, is consistent with design and safety requirements;
- (ii) operational limits and conditions, derived from tests, operational experience and the assessments as specified in Article 15 are defined and revised as necessary;
- (iii) operation, maintenance, monitoring, inspection and testing of a radioactive waste management facility are conducted in accordance with established procedures. For a disposal facility the results thus obtained shall be used to verify and to review the validity of assumptions made and to update the assessments as specified in Article 15 for the period after closure;
- (iv) engineering and technical support in all safety-related fields are available throughout the operating lifetime of a radioactive waste management facility;
- (v) procedures for characterization and segregation of radioactive waste are applied;

- (vi) incidents significant to safety are reported in a timely manner by the holder of the licence to the regulatory body;
- (vii) programmes to collect and analyse relevant operating experience are established and that the results are acted upon, where appropriate;
- (viii) decommissioning plans for a radioactive waste management facility other than a disposal facility are prepared and updated, as necessary, using information obtained during the operating lifetime of that facility, and are reviewed by the regulatory body;
- (ix) plans for the closure of a disposal facility are prepared and updated, as necessary, using information obtained during the operating lifetime of that facility and are reviewed by the regulatory body.

ARTICLE 17. INSTITUTIONAL MEASURES AFTER CLOSURE

Each Contracting Party shall take the appropriate steps to ensure that after closure of a disposal facility:

- (i) records of the location, design and inventory of that facility required by the regulatory body are preserved;
- (ii) active or passive institutional controls such as monitoring or access restrictions are carried out, if required; and
- (iii) if, during any period of active institutional control, an unplanned release of radioactive materials into the environment is detected, intervention measures are implemented, if necessary.

CHAPTER 4 GENERAL SAFETY PROVISIONS

ARTICLE 18. IMPLEMENTING MEASURES

Each Contracting Party shall take, within the framework of its national law, the legislative, regulatory and administrative measures and other steps necessary for implementing its obligations under this Convention.

ARTICLE 19. LEGISLATIVE AND REGULATORY FRAMEWORK

1. Each Contracting Party shall establish and maintain a legislative and regulatory framework to govern the safety of spent fuel and radioactive waste management.
2. This legislative and regulatory framework shall provide for:
 - (i) the establishment of applicable national safety requirements and regulations for radiation safety;
 - (ii) a system of licensing of spent fuel and radioactive waste management activities;
 - (iii) a system of prohibition of the operation of a spent fuel or radioactive waste management facility without a licence;
 - (iv) a system of appropriate institutional control, regulatory inspection and documentation and reporting;
 - (v) the enforcement of applicable regulations and of the terms of the licences;
 - (vi) a clear allocation of responsibilities of the bodies involved in the different steps of spent fuel and of radioactive waste management.

3. When considering whether to regulate radioactive materials as radioactive waste, Contracting Parties shall take due account of the objectives of this Convention.

ARTICLE 20. REGULATORY BODY

1. Each Contracting Party shall establish or designate a regulatory body entrusted with the implementation of the legislative and regulatory framework referred to in Article 19, and provided with adequate authority, competence and financial and human resources to fulfill its assigned responsibilities.

2. Each Contracting Party, in accordance with its legislative and regulatory framework, shall take the appropriate steps to ensure the effective independence of the regulatory functions from other functions where organizations are involved in both spent fuel or radioactive waste management and in their regulation.

ARTICLE 21. RESPONSIBILITY OF THE LICENCE HOLDER

1. Each Contracting Party shall ensure that prime responsibility for the safety of spent fuel or radioactive waste management rests with the holder of the relevant licence and shall take the appropriate steps to ensure that each such licence holder meets its responsibility.

2. If there is no such licence holder or other responsible party, the responsibility rests with the Contracting Party which has jurisdiction over the spent fuel or over the radioactive waste.

ARTICLE 22. HUMAN AND FINANCIAL RESOURCES

Each Contracting Party shall take the appropriate steps to ensure that:

(i) qualified staff are available as needed for safety-related activities during the operating lifetime of a spent fuel and a radioactive waste management facility;

- (ii) adequate financial resources are available to support the safety of facilities for spent fuel and radioactive waste management during their operating lifetime and for decommissioning;
- (iii) financial provision is made which will enable the appropriate institutional controls and monitoring arrangements to be continued for the period deemed necessary following the closure of a disposal facility.

ARTICLE 23. QUALITY ASSURANCE

Each Contracting Party shall take the necessary steps to ensure that appropriate quality assurance programmes concerning the safety of spent fuel and radioactive waste management are established and implemented.

ARTICLE 24. OPERATIONAL RADIATION PROTECTION

1. Each Contracting Party shall take the appropriate steps to ensure that during the operating lifetime of a spent fuel or radioactive waste management facility:

- (i) the radiation exposure of the workers and the public caused by the facility shall be kept as low as reasonably achievable, economic and social factors being taken into account;
- (ii) no individual shall be exposed, in normal situations, to radiation doses which exceed national prescriptions for dose limitation which have due regard to internationally endorsed standards on radiation protection; and
- (iii) measures are taken to prevent unplanned and uncontrolled releases of radioactive materials into the environment.

2. Each Contracting Party shall take appropriate steps to ensure that discharges shall be limited:

- (i) to keep exposure to radiation as low as reasonably achievable, economic and social factors being taken into account; and
- (ii) so that no individual shall be exposed, in normal situations, to radiation doses which exceed national prescriptions for dose limitation which have due regard to internationally endorsed standards on radiation protection.

3. Each Contracting Party shall take appropriate steps to ensure that during the operating lifetime of a regulated nuclear facility, in the event that an unplanned or uncontrolled release of radioactive materials into the environment occurs, appropriate corrective measures are implemented to control the release and mitigate its effects.

ARTICLE 25. EMERGENCY PREPAREDNESS

1. Each Contracting Party shall ensure that before and during operation of a spent fuel or radioactive waste management facility there are appropriate on-site and, if necessary, off-site emergency plans. Such emergency plans should be tested at an appropriate frequency.

2. Each Contracting Party shall take the appropriate steps for the preparation and testing of emergency plans for its territory insofar as it is likely to be affected in the event of a radiological emergency at a spent fuel or radioactive waste management facility in the vicinity of its territory.

ARTICLE 26. DECOMMISSIONING

Each Contracting Party shall take the appropriate steps to ensure the safety of decommissioning of a nuclear facility. Such steps shall ensure that:

- (i) qualified staff and adequate financial resources are available;
- (ii) the provisions of Article 24 with respect to operational radiation protection, discharges and unplanned and uncontrolled releases are applied;

- (iii) the provisions of Article 25 with respect to emergency preparedness are applied; and
- (iv) records of information important to decommissioning are kept.

CHAPTER 5 MISCELLANEOUS PROVISIONS

ARTICLE 27. TRANSBOUNDARY MOVEMENT

1. Each Contracting Party involved in transboundary movement shall take the appropriate steps to ensure that such movement is undertaken in a manner consistent with the provisions of this Convention and relevant binding international instruments.

In so doing:

- (i) a Contracting Party which is a State of origin shall take the appropriate steps to ensure that transboundary movement is authorized and takes place only with the prior notification and consent of the State of destination;
- (ii) transboundary movement through States of transit shall be subject to those international obligations which are relevant to the particular modes of transport utilized;
- (iii) a Contracting Party which is a State of destination shall consent to a transboundary movement only if it has the administrative and technical capacity, as well as the regulatory structure, needed to manage the spent fuel or the radioactive waste in a manner consistent with this Convention;
- (iv) a Contracting Party which is a State of origin shall authorize a transboundary movement only if it can satisfy itself in accordance with the consent of the State of destination that the requirements of subparagraph (iii) are met prior to transboundary movement;

- (v) a Contracting Party which is a State of origin shall take the appropriate steps to permit re-entry into its territory, if a transboundary movement is not or cannot be completed in conformity with this Article, unless an alternative safe arrangement can be made.
2. A Contracting Party shall not licence the shipment of its spent fuel or radioactive waste to a destination south of latitude 60 degrees South for storage or disposal.
3. Nothing in this Convention prejudices or affects:
- (i) the exercise, by ships and aircraft of all States, of maritime, river and air navigation rights and freedoms, as provided for in international law;
 - (ii) rights of a Contracting Party to which radioactive waste is exported for processing to return, or provide for the return of, the radioactive waste and other products after treatment to the State of origin;
 - (iii) the right of a Contracting Party to export its spent fuel for reprocessing;
 - (iv) rights of a Contracting Party to which spent fuel is exported for reprocessing to return, or provide for the return of, radioactive waste and other products resulting from reprocessing operations to the State of origin.

ARTICLE 28. DISUSED SEALED SOURCES

1. Each Contracting Party shall, in the framework of its national law, take the appropriate steps to ensure that the possession, remanufacturing or disposal of disused sealed sources takes place in a safe manner.
2. A Contracting Party shall allow for reentry into its territory of disused sealed sources if, in the framework of its national law, it has accepted that they be returned to a manufacturer qualified to receive and possess the disused sealed sources.

CHAPTER 6 MEETINGS OF THE CONTRACTING PARTIES

ARTICLE 29. PREPARATORY MEETING

1. A preparatory meeting of the Contracting Parties shall be held not later than six months after the date of entry into force of this Convention.

2. At this meeting, the Contracting Parties shall:

- (i) determine the date for the first review meeting as referred to in Article 30. This review meeting shall be held as soon as possible, but not later than thirty months after the date of entry into force of this Convention;
- (ii) prepare and adopt by consensus Rules of Procedure and Financial Rules;
- (iii) establish in particular and in accordance with the Rules of Procedure:
 - (a) guidelines regarding the form and structure of the national reports to be submitted pursuant to Article 32;
 - (b) a date for the submission of such reports;
 - (c) the process for reviewing such reports.

3. Any State or regional organization of an integration or other nature which ratifies, accepts, approves, accedes to or confirms this Convention and for which the Convention is not yet in force, may attend the preparatory meeting as if it were a Party to this Convention.

ARTICLE 30. REVIEW MEETINGS

1. The Contracting Parties shall hold meetings for the purpose of reviewing the reports submitted pursuant to Article 32.

2. At each review meeting the Contracting Parties:
 - (i) shall determine the date for the next such meeting, the interval between review meetings not exceeding three years;
 - (ii) may review the arrangements established pursuant to paragraph 2 of Article 29, and adopt revisions by consensus unless otherwise provided for in the Rules of Procedure. They may also amend the Rules of Procedure and Financial Rules by consensus.

3. At each review meeting each Contracting Party shall have a reasonable opportunity to discuss the reports submitted by other Contracting Parties and to seek clarification of such reports.

ARTICLE 31. EXTRAORDINARY MEETINGS

An extraordinary meeting of the Contracting Parties shall be held:

- (i) if so agreed by a majority of the Contracting Parties present and voting at a meeting; or
- (ii) at the written request of a Contracting Party, within six months of this request having been communicated to the Contracting Parties and notification having been received by the secretariat referred to in Article 37 that the request has been supported by a majority of the Contracting Parties.

ARTICLE 32. REPORTING

1. In accordance with the provisions of Article 30, each Contracting Party shall submit a national report to each review meeting of Contracting Parties. This report shall address the measures taken to implement each of the obligations of the Convention. For each Contracting Party the report shall also address its:

- (i) spent fuel management policy;
- (ii) spent fuel management practices;
- (iii) radioactive waste management policy;
- (iv) radioactive waste management practices;
- (v) criteria used to define and categorize radioactive waste.

2. This report shall also include:

- (i) a list of the spent fuel management facilities subject to this Convention, their location, main purpose and essential features;
- (ii) an inventory of spent fuel that is subject to this Convention and that is being held in storage and of that which has been disposed of. This inventory shall contain a description of the material and, if available, give information on its mass and its total activity;
- (iii) a list of the radioactive waste management facilities subject to this Convention, their location, main purpose and essential features;
- (iv) an inventory of radioactive waste that is subject to this Convention that:
 - (a) is being held in storage at radioactive waste management and nuclear fuel cycle facilities;
 - (b) has been disposed of; or
 - (c) has resulted from past practices.

This inventory shall contain a description of the material and other appropriate information available, such as volume or mass, activity and specific radionuclides;

- (v) a list of nuclear facilities in the process of being decommissioned and the status of decommissioning activities at those facilities.

ARTICLE 33. ATTENDANCE

1. Each Contracting Party shall attend meetings of the Contracting Parties and be represented at such meetings by one delegate, and by such alternates, experts and advisers as it deems necessary.

2. The Contracting Parties may invite, by consensus, any intergovernmental organization which is competent in respect of matters governed by this Convention to attend, as an observer, any meeting, or specific sessions thereof. Observers shall be required to accept in writing, and in advance, the provisions of Article 36.

ARTICLE 34. SUMMARY REPORTS

The Contracting Parties shall adopt, by consensus, and make available to the public a document addressing issues discussed and conclusions reached during meetings of the Contracting Parties.

ARTICLE 35. LANGUAGES

1. The languages of meetings of the Contracting Parties shall be Arabic, Chinese, English, French, Russian and Spanish unless otherwise provided in the Rules of Procedure.

2. Reports submitted pursuant to Article 32 shall be prepared in the national language of the submitting Contracting Party or in a single designated language to be agreed in the Rules of Procedure. Should the report be submitted in a national language other than the designated language, a translation of the report into the designated language shall be provided by the Contracting Party.

3. Notwithstanding the provisions of paragraph 2, the secretariat, if compensated, will assume the translation of reports submitted in any other language of the meeting into the designated language.

ARTICLE 36. CONFIDENTIALITY

1. The provisions of this Convention shall not affect the rights and obligations of the Contracting Parties under their laws to protect information from disclosure. For the purposes of this article, "information" includes, inter alia, information relating to national security or to the physical protection of nuclear materials, information protected by intellectual property rights or by industrial or commercial confidentiality, and personal data.

2. When, in the context of this Convention, a Contracting Party provides information identified by it as protected as described in paragraph 1, such information shall be used only for the purposes for which it has been provided and its confidentiality shall be respected.

3. With respect to information relating to spent fuel or radioactive waste falling within the scope of this Convention by virtue of paragraph 3 of Article 3, the provisions of this Convention shall not affect the exclusive discretion of the Contracting Party concerned to decide:

- (i) whether such information is classified or otherwise controlled to preclude release;
- (ii) whether to provide information referred to in sub-paragraph (i) above in the context of the Convention; and
- (iii) what conditions of confidentiality are attached to such information if it is provided in the context of this Convention.

4. The content of the debates during the reviewing of the national reports at each review meeting held pursuant to Article 30 shall be confidential.

ARTICLE 37. SECRETARIAT

1. The International Atomic Energy Agency, (hereinafter referred to as "the Agency") shall provide the secretariat for the meetings of the Contracting Parties.

2. The secretariat shall:
 - (i) convene, prepare and service the meetings of the Contracting Parties referred to in Articles 29, 30 and 31;

 - (ii) transmit to the Contracting Parties information received or prepared in accordance with the provisions of this Convention.

The costs incurred by the Agency in carrying out the functions referred to in sub-paragraphs (i) and (ii) above shall be borne by the Agency as part of its regular budget.

3. The Contracting Parties may, by consensus, request the Agency to provide other services in support of meetings of the Contracting Parties. The Agency may provide such services if they can be undertaken within its programme and regular budget. Should this not be possible, the Agency may provide such services if voluntary funding is provided from another source.

CHAPTER 7. FINAL CLAUSES AND OTHER PROVISIONS

ARTICLE 38. RESOLUTION OF DISAGREEMENTS

In the event of a disagreement between two or more Contracting Parties concerning the interpretation or application of this Convention, the Contracting Parties shall consult within the framework of a meeting of the Contracting Parties with a view to resolving the disagreement. In the event that the consultations prove unproductive, recourse can be made to the mediation, conciliation and arbitration mechanisms provided for in international law, including the rules and practices prevailing within the IAEA.

ARTICLE 39. SIGNATURE, RATIFICATION, ACCEPTANCE, APPROVAL, ACCESSION

1. This Convention shall be open for signature by all States at the Headquarters of the Agency in Vienna from 29 September 1997 until its entry into force.
2. This Convention is subject to ratification, acceptance or approval by the signatory States.
3. After its entry into force, this Convention shall be open for accession by all States.
4.
 - (i) This Convention shall be open for signature subject to confirmation, or accession by regional organizations of an integration or other nature, provided that any such organization is constituted by sovereign States and has competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this Convention.
 - (ii) In matters within their competence, such organizations shall, on their own behalf, exercise the rights and fulfil the responsibilities which this Convention attributes to States Parties.
 - (iii) When becoming party to this Convention, such an organization shall communicate to the Depositary referred to in Article 43, a declaration indicating which States are members thereof, which Articles of this Convention apply to it, and the extent of its competence in the field covered by those articles.
 - (iv) Such an organization shall not hold any vote additional to those of its Member States.
5. Instruments of ratification, acceptance, approval, accession or confirmation shall be deposited with the Depositary.

ARTICLE 40. ENTRY INTO FORCE

1. This Convention shall enter into force on the ninetieth day after the date of deposit with the Depositary of the twenty-fifth instrument of ratification, acceptance or approval, including the instruments of fifteen States each having an operational nuclear power plant.

2. For each State or regional organization of an integration or other nature which ratifies, accepts, approves, accedes to or confirms this Convention after the date of deposit of the last instrument required to satisfy the conditions set forth in paragraph 1, this Convention shall enter into force on the ninetieth day after the date of deposit with the Depositary of the appropriate instrument by such a State or organization.

ARTICLE 41. AMENDMENTS TO THE CONVENTION

1. Any Contracting Party may propose an amendment to this Convention. Proposed amendments shall be considered at a review meeting or at an extraordinary meeting.

2. The text of any proposed amendment and the reasons for it shall be provided to the Depositary who shall communicate the proposal to the Contracting Parties at least ninety days before the meeting for which it is submitted for consideration. Any comments received on such a proposal shall be circulated by the Depositary to the Contracting Parties.

3. The Contracting Parties shall decide after consideration of the proposed amendment whether to adopt it by consensus, or, in the absence of consensus, to submit it to a Diplomatic Conference. A decision to submit a proposed amendment to a Diplomatic Conference shall require a two-thirds majority vote of the Contracting Parties present and voting at the meeting, provided that at least one half of the Contracting Parties are present at the time of voting.

4. The Diplomatic Conference to consider and adopt amendments to this Convention shall be convened by the Depositary and held no later than one year after the appropriate decision taken in accordance with paragraph 3 of this article. The Diplomatic Conference shall make every effort to

ensure amendments are adopted by consensus. Should this not be possible, amendments shall be adopted with a two-thirds majority of all Contracting Parties.

5. Amendments to this Convention adopted pursuant to paragraphs 3 and 4 above shall be subject to ratification, acceptance, approval, or confirmation by the Contracting Parties and shall enter into force for those Contracting Parties which have ratified, accepted, approved or confirmed them on the ninetieth day after the receipt by the Depositary of the relevant instruments of at least two thirds of the Contracting Parties. For a Contracting Party which subsequently ratifies, accepts, approves or confirms the said amendments, the amendments will enter into force on the ninetieth day after that Contracting Party has deposited its relevant instrument.

ARTICLE 42. DENUNCIATION

1. Any Contracting Party may denounce this Convention by written notification to the Depositary.

2. Denunciation shall take effect one year following the date of the receipt of the notification by the Depositary, or on such later date as may be specified in the notification.

ARTICLE 43. DEPOSITARY

1. The Director General of the Agency shall be the Depositary of this Convention.

2. The Depositary shall inform the Contracting Parties of:

- (i) the signature of this Convention and of the deposit of instruments of ratification, acceptance, approval, accession or confirmation in accordance with Article 39;
- (ii) the date on which the Convention enters into force, in accordance with Article 40;

- (iii) the notifications of denunciation of the Convention and the date thereof, made in accordance with Article 42;
- (iv) the proposed amendments to this Convention submitted by Contracting Parties, the amendments adopted by the relevant Diplomatic Conference or by the meeting of the Contracting Parties, and the date of entry into force of the said amendments, in accordance with Article 41.

ARTICLE 44. AUTHENTIC TEXTS

The original of this Convention of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Depositary, who shall send certified copies thereof to the Contracting Parties.

IN WITNESS WHEREOF THE UNDERSIGNED, BEING DULY AUTHORIZED TO THAT EFFECT, HAVE SIGNED THIS CONVENTION.

Done at Vienna on the fifth day of September, one thousand nine hundred and ninety-seven.

WENRA

WESTERN EUROPEAN NUCLEAR
REGULATORS ASSOCIATION

RHWG

REACTOR HARMONISATION
WORKING GROUP

WGWD

WORKING GROUP ON WASTE
AND DECOMMISSIONING

WIG

WENRA INSPECTION
WORKING GROUP