

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(93) 235 final

Brussels, 26 May 1993

Amended proposal for a

COUNCIL REGULATION (EURATOM)

SHIPMENTS OF RADIOACTIVE SUBSTANCES

WITHIN THE EUROPEAN COMMUNITY

(submitted by the Commission pursuant to article 119,2
of the EAEC Treaty)

EXPLANATORY MEMORANDUM

At its sitting of 21 April 1993, the European Parliament gave its opinion on a proposal for a Council regulation (Euratom) on shipments of radioactive substances within the European Community. The proposal was approved by the Commission on 4 December 1992⁽¹⁾ having considered the opinion given by the Economic and Social Committee on 25 November 1992⁽²⁾ on a draft proposal put forward on 23 July 1992⁽³⁾.

The present modified proposal takes account of the amendments requested by the European Parliament where the Commission has been able to accept them.

The Commission accepted amendment No. 4 spelling out explicitly that special controls on shipments of radioactive substances can be performed, as long as they are not discriminatory (article 3).

It also accepted amendment No. 5 clarifying the meaning of "disposal" (in article 4(1) French language version only). The Commission also accepted to clarify that the proposed regulation does not affect existing provisions under Chapter VII - SAFEGUARDS of the Euratom Treaty, nor does affect those under the Convention on the physical protection of nuclear materials notably those of informing in advance States through which the nuclear material is expected to transit (amendments No. 9 and compromise amendment No. 15, see 5th whereas clause; new article 7,2 and 7,3).

(1) COM(92)520 Final, O.J. C 397 of 31.12.1992

(2) ...

(3) SEC(92)1538 Final

The Commission accepted amendment No. 11 regarding information to be supplied by the Commission to the European Parliament (art. 8 new), and also accepted amendment No. 12 on information to be exchanged between the national competent authorities within the framework of Article 6. The Commission also accepted to apply the regulation to shipments effected by the Commission or on its behalf, as proposed by amendment No. 13 (art. 7,4). The Commission accepted compromise amendment No. 16 asking to modify the standard document annexed to the regulation by giving instructions how to fill out in of the document, in particular to provide information on intended use of the substances and on the transport operations and related insurances..

The Commission could not accept amendment No. 1 proposing that Member States conform with the Member State which has adopted the most stringent measures in the field. The proposed amendment would in fact prevent the correct application of the As Low As Reasonably Achievable (ALARA) principle required by Article 6 of directive 80/836/Euratom.

The Commission could not accept amendment No. 2 proposing a moratorium on shipments of substances likely to play a role in nuclear proliferation, or intended for export, except those used for medical purposes, pending the adoption and implementation of the Council regulation (EEC) on the control of export of certain dual-use goods and technologies and of certain nuclear products and technologies, proposed by the Commission⁽⁴⁾. Radioactive substances which at the same time are dual-use goods in the meaning of COM(92)317 Final are subject to the provisions of Chapter VII Safeguards of the Euratom Treaty. Special fissile materials as defined by Art. 197 of the Euratom Treaty are also subject to the provisions of the 1980 New York convention on the Physical Protection of Nuclear Materials, to which the Community and all its Member States are party. All Member States of the Community have also subscribed to the Nuclear Suppliers Export Guidelines, better

(4) COM(92) 317 Final

known as "London Guidelines" concerning export and physical protection of such materials. The Commission therefore considered that sufficient control is presently exercised on radioactive substances likely to play a role in nuclear proliferation as to make unjustified the proposed moratorium on their Intra-Community shipments.

The Commission could not accept amendment No. 3 aiming at prohibiting air transport of radioactive substances except those intended for medical purposes. The regulation has the limited objective of ensuring that the consignee of radioactive substances is known to the national authorities competent for radiation protection in his country. The safety of transport of radioactive substances is ensured worldwide by the application of the Regulations for the Safe Transport of Radioactive materials issued by the International Atomic Energy Agency (IAEA).

The IAEA regulations are incorporated into the major international agreements on transport of dangerous goods, of which radioactive substances are a class.

As regards specifically air transport, the carriage of dangerous goods by air is regulated by the International Civil Aviation Organisation (ICAO) which issued the "Technical Instructions for the safe transport of dangerous goods by air". The ICAO Instructions are in force in all the Community Member States and they embody the provisions of the IAEA regulations.

All the operations and conditions associated with the movement of radioactive materials, such as the design, manufacture, maintenance and preparation of packages and their dispatch, handling, routing, storage during transport and reception on delivery of radioactive substances are dealt with by the Commission within the context of transport. Two communications from the Commission on the transport of radioactive materials in the European Community, together with reports on the same subject from a special working party to the Commission, were transmitted to the Council and to the European Parliament in 1984⁽⁵⁾ and 1989⁽⁶⁾. A third report is presently in preparation and on its basis the Commission may identify possible actions in the field, taking into account the activities going on within the IAEA.

The Commission could not accept amendments No. 6 and No. 10 proposing an involvement in the application of the regulation of the Commission's services responsible for the application of Chapter VI Supplies and Chapter VII Safeguards of the Euratom Treaty respectively. The regulation deals with radiation protection, which is the subject of Chapter III of the Euratom Treaty, and it has to be applied independently from, and in addition to, the provisions stemming from the other Chapters of the Treaty mentioned.

(5) COM(89)233 Final

(6) SEC(89)801 Final

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MODIFIED PROPOSAL FOR A COUNCIL REGULATION (EURATOM) ON SHIPMENTS
OF RADIOACTIVE SUBSTANCES WITHIN THE EUROPEAN COMMUNITY

(Submitted by the Commission pursuant to article 119,2
of the EAEC Treaty)

Original text

Modified text

(5th whereas clause, new)

Whereas special fissile materials as defined by Article 197 of the Euratom Treaty are subject to the provisions of Chapter VII - Safeguards of that Treaty and the transport of such materials is subject to the international convention on the physical protection of nuclear materials (IAEA, 1980).

Article 3

Checks carried out under Community law or national law in the event of shipments of radioactive substances shall be conducted solely within the context of routine checks performed in a non-discriminatory manner throughout the territory of a Member State.

Article 3

Checks carried out under Community law or national law in the event of shipments of radioactive substances shall be conducted solely within the context of routine or special checks performed in a non-discriminatory manner throughout the territory of a Member State.

Article 6

The competent authorities of Member States shall co-operate in ensuring the application of this Regulation as regards shipments of radioactive substances.

Article 6

The competent authorities of Member States shall co-operate in ensuring the application of this Regulation as regards shipments of radioactive substances.

The cooperation may include the exchange of information on the number of shipments and the highest single quantity of each radionuclide delivered to each consignee.

Article 7

Article 7

1. Nothing in this Regulation shall affect the obligations resulting from Directive 92/3/EURATOM.
2. The present regulation does not apply to shipments of radioactive substances carried out :
 - between the establishments within the meaning of Article 8, paragraph 2, of the Treaty;
 - by the Commission, or at the request of it, within the framework of its mission under the terms of the second title, Chapter VII, of the Treaty.

1. Nothing in this Regulation shall affect the obligations resulting from Directive 92/3/EURATOM.
2. Nothing in this Regulation shall affect the obligations resulting from Chapter VII-Safeguards of the Euratom Treaty.
3. Nothing in this Regulation shall affect the obligations resulting from the Convention on the physical protection of nuclear materials, notably those of informing in advance States through which the nuclear material is expected to transit.

Article 8 (new)

Every two years, and for the first time on 31 May 1995, Member States shall forward to the Commission reports on the implementation of this regulation.

On the basis of these reports, the Commission shall prepare a summary report for the European Parliament, the Council and the Economic and Social Committee.

Former Article 8 becomes Article 9.

ANNEX

SHIPMENTS OF RADIOACTIVE SUBSTANCES WITHIN THE EUROPEAN COMMUNITY

Standard document pursuant to Council Regulation (Euratom) No .../...

Notice

- the consignee of radioactive substances shall complete boxes 1 to 7 and send this form to the relevant competent authority in his country.
- the competent authority endorsing the consignee declaration shall fill in box 8 and return this form to the consignee.
- box 6 will be used by the consignee for any additional information such as :
 - Intended use of the radioactive substances.
 - Information on the transport operations effecting the shipment and related insurances.

1. DECLARATION FOR A SINGLE SHIPMENT

DECLARATION FOR MORE THAN ONE SHIPMENT

2. CONSIGNEE OF THE RADIOACTIVE SUBSTANCES: _____

Place of destination of the radioactive substances: _____

Responsible person: _____

3. THE CONSIGNEE IS SUBJECT TO:

3.1. REPORTING

Reporting was made

On (date) _____

Place _____

To (name of the competent authority) _____

3.2. AUTHORIZATION

Authorization, delivered by (name of competent authority) _____

On (date) _____

Place _____

3.3. Maximum activity and principal radionuclides mentioned in the reporting/authorization:

4. DESCRIPTION OF THE RADIOACTIVE SUBSTANCES TO BE SHIPPED: _____

4.1. Maximum activity and principal radionuclides: _____

5. HOLDER OF THE RADIOACTIVE SUBSTANCES: _____

6. ADDITIONAL INFORMATION: _____

7. CONSIGNEES DECLARATION:

It is hereby certified that the information given above is correct.

Date: _____

Name: _____

Signature: _____

8. ENDORSEMENT BY THE COMPETENT AUTHORITIES AND DATE OF EXPIRY:

Name: _____

Address: _____

Date of expiry of the endorsed declaration: _____

Date: _____

Stamp: _____

Signature: _____

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DOCUMENTS

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