Council of the European Union

Brussels, 21 December 2023
(OR. en)

17087/23

Interinstitutional File:
2023/0465(NLE)

ATO 64
ENV 1545
IND 715

PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	21 December 2023
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2023) 793 final
Subject:	Proposal for a COUNCIL DECISION approving a Commission Regulation (Euratom) on the application of Euratom safeguards

Delegations will find attached document COM(2023) 793 final.

Encl.: COM(2023) 793 final

EUROPEAN
COMMISSION

Brussels, 21.12.2023
COM(2023) 793 final

2023/0465 (NLE)

Proposal for a

COUNCIL DECISION

approving a Commission Regulation (Euratom) on the application of Euratom safeguards

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Euratom (nuclear) safeguards is the legal as well as technical term which describes all elements of the nuclear material supervision system under the exclusive competence of the Euratom Community, established by Chapter 7 of the Euratom Treaty and operated by the European Commission on behalf of the Community for all Member States of this Community. Article 77 of the Treaty explicitly requires the Commission to ensure non-diversion of civil nuclear materials[1] from their intended uses and compliance with the safeguards obligations assumed by the Euratom Community under international agreements. In this context, Article 79, first paragraph of the Treaty provides that 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. Article 79, third paragraph, provides that "the nature and extent of the requirements referred to in the first paragraph shall be defined in a regulation made by the Commission and approved by the Council".

Commission Regulation (Euratom) No 302/2005 of 8 February 2005 on the application of Euratom safeguards[2] (hereinafter 'Regulation 302/2005' or 'the Regulation') is the latest regulation to this effect since 1959. It lays down the specific information to be declared by users of nuclear materials (operators) to the European Commission. It also specifies the records that operators are obliged to keep, allowing the Commission to verify that nuclear materials are not diverted from their intended uses.

An in-depth REFIT evaluation[3] (hereinafter 'the Evaluation') of Regulation 302/2005 was concluded in 2022. It shows that the Regulation has been successfully implemented; however, its effectiveness has gradually decreased, mostly due to the technological progress and the developments in the nuclear sector over the last 17 years. Therefore, a targeted revision of Regulation 302/2005 was considered necessary.

The objective of the revision of Regulation 302/2005 is to ensure the continued effectiveness and efficiency of Euratom safeguards in light of the recent developments in the nuclear sector and in information technology.

The proposal for a new (revised) Commission Regulation (Euratom) on the application of Euratom safeguards (hereinafter 'the new Regulation'), which is annexed to this proposal for a Council Decision, responds to the conclusions of the Evaluation. The revisions introduced in the new Regulation are limited in scope and targeted towards specific measures, listed as lessons learned in the Evaluation.

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1 'Nuclear materials' means ores, source materials or special fissile materials as defined in Article 197 of the Euratom Treaty. According to Article 84 of the Euratom Treaty, *"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."*

2 OJ L 54, 28.2.2005, p. 1. Regulation as last amended by Commission Regulation (EU) No 519/2013 of 21 February 2013 (OJ L 158, 10.6.2013, p. 74).

3 Commission staff working document SWD(2023) 5 final, *Evaluation of Commission Regulation (Euratom) No 302/2005 of 8 February 2005 on the application of Euratom safeguards*.

- **Consistency with existing policy provisions in the policy area**

The Evaluation identified the need to strengthen the coherence between Regulation 302/2005 and the Euratom Directives on basic safety standards for protection against the dangers arising from exposure to ionising radiation[4], on nuclear safety of nuclear installations[5], on the management of spent fuel and radioactive waste[6], and on the supervision and control of shipments of radioactive waste and spent fuel[7]. In particular, this concerns definitions related to waste as well as the formats and time-limits for declaring basic technical characteristics of complex installations in Regulation 302/2005.

The nuclear safeguards concept (aimed at non-diversion of nuclear materials from their declared use) is distinct from the concepts of radiation protection and nuclear safety (aimed at the protection of humans from dangers arising from ionising radiation). Although Regulation 302/2005 has no direct interaction with the above-mentioned Directives, it nevertheless complements them. Therefore, it is important to ensure the achievement of their interlinked objectives in an optimal fashion.

The revised definitions as well as the new definitions introduced in the new Regulation provide for consistency between the new Regulation and the aforementioned Directives to the best possible extent. In particular, the updated definitions of 'waste' and 'spent fuel' align better, but not fully, with the definitions of 'radioactive waste' and 'spent fuel' in the Directives for several reasons:

– First, because the Directives and the new Regulation address different actors and aim at different purposes. The Directives define 'radioactive waste', whereas the Regulation defines 'waste'. For safeguards purposes, the 'waste' definition needs to consider the strategic value and risk of diversion of nuclear material contained in waste; therefore, the concept that nuclear material is unrecoverable for economic or practical reasons needs to be part of the definition. Moreover, 'waste' is a material description declared as such in accountancy reports. In addition, the Directives give *"the Member State or a legal or natural person whose decision is accepted by the Member State"* direct influence on what is to be considered radioactive waste (in the respective Member States), whereas in the case of the Regulation on Euratom safeguards Euratom/the Commission acts as regulator.

– Second, because the formulation of the definition of 'waste' has implications for Euratom safeguards activities as well as for the fulfilment of obligations under the Safeguards Agreements with the IAEA. These agreements include specific provisions for nuclear material in waste, including for reporting such material to the IAEA. Nuclear material remains under IAEA safeguards until it meets the technical criteria defined by the IAEA for the termination of its safeguards.

The new requirements on the formats and time-limits for declaring basic technical characteristics of complex installations, introduced in the new Regulation, ensure the incorporation of nuclear safeguards measures early in the planning and design at different stages of the lifecycle of these installations ('safeguards-by-design' concept) in accordance with related licensing provisions of the aforementioned Directives.

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4 OJ L 13, 17.1.2014, p. 1–73

5 OJ L 172, 2.7.2009, p. 18–22. Directive as amended, OJ L 219, 25.7.2014, p. 42–52

6 OJ L 199, 2.8.2011, p. 48–56.

7 OJ L 337, 5.12.2006, p. 21–32

- **Consistency with other Union policies**

The new Regulation is consistent with EU policy on security of information. Commission Decision (EU, Euratom) 2015/444[8] will continue to apply to information, knowledge and documents acquired by the parties implementing the new Regulation and without prejudice to Council Regulation No 3 of 31 July 1958 implementing Article 24 of the Treaty establishing the European Atomic Energy Community[9].

The new Regulation, with its new requirements for providing reports and declarations in electronic form, will contribute to the Digital Strategy of the European Commission[10].

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis of the Commission proposal for a Council decision approving the new Regulation is the Euratom Treaty, and in particular Article 79 paragraph 3 thereof.

The legal basis of the Commission proposal for a Regulation on the application of Euratom safeguards is the Euratom Treaty, and in particular Articles 77, 78, 79, 81 and 84 thereof.

- **Subsidiarity (for non-exclusive competence)**

The proposed Regulation falls under the policy area of nuclear safeguards, where the Euratom Community has exclusive competence executed by the Commission under the Euratom Treaty.

- **Proportionality**

The proposal complies with the proportionality principle because it does not exceed what is necessary for a continued achievement of the Euratom safeguards objectives. In particular, to enable the Commission to operate Euratom safeguards system, thus providing assurance that civil nuclear materials are not diverted in the territory of the EU and that the safeguards obligations assumed by the Euratom Community under international agreements are complied with.

- **Choice of the instrument**

Given the need for a binding, directly applicable act, a regulation is the only adequate instrument as also provided for in Article 79 paragraph 3 of the Euratom Treaty. This Regulation aims to update and improve the existing rules provided by Regulation 302/2005 to ensure the continued effectiveness and efficiency of Euratom safeguards. In the interest of clarity, that Regulation 302/2005 shall be repealed and replaced by the new Regulation.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

The Evaluation concluded that Regulation 302/2005 has to a large extent been effective in reaching its objectives in an efficient way. It has also been coherent in general with the

[8] OJ L 72, 17.3.2015, p. 53–88.
[9] OJ 17, 6.10.1958, p. 406/58.
[10] Communication to the Commission: European Commission digital strategy Next generation digital Commission, Brussels, C(2022) 4388 final, 30.6.2022.

international safeguards obligations assumed by Euratom and with other Euratom and EU policies. Regulation 302/2005 has been and is likely to remain highly relevant. However, it would benefit from some targeted adjustments to better reflect the recent and expected developments in the nuclear industry. The needed changes are listed in the evaluation report as lessons learned:

– introducing a more graded approach in nuclear material reporting based on the strategic value of materials, and related installations and activities;

– introducing provisions for application of the safeguards-by-design concept for certain complex installations, including new builds, major modifications and decommissioning;

– properly addressing the particularities of the processes of decommissioning of nuclear installations and geological disposal of waste and spent fuel;

– adapting the provisions of the Regulation to new types of installations expected to become operational in the near future, such as geological repositories, encapsulation plants and novel types of reactors;

– properly addressing installations holding small amounts of nuclear materials, namely locations outside facilities (LOFs), national LOFs, and installations in the Catch All MBA (CAM holders);

– ensuring coherence with all international obligations, including Nuclear Cooperation Agreements between the Euratom Community and third countries;

– exploring the potential for facilitation by use of digital technology;

– updating definitions accordingly.

Information on how the new Regulation addresses these needs for improvement is provided below in Section 5 under 'Detailed explanation of the specific provisions of the proposal'.

• **Stakeholder consultations**

The stakeholder consultation activities undertaken by the Commission for the purpose of the Evaluation, used the following consultation tools:

– targeted stakeholder consultations with the objective of collecting and taking into account the views and experience of the stakeholders that are directly affected by the implementation of the Regulation, i.e. operators and the responsible national authorities[11] in the EU Member States;

– broader stakeholder consultations - gathering the views of the wider nuclear safeguards community on the aspects related to the implementation of the Regulation and expressed at different forums at the EU and global level.

Contributions to the targeted consultations were provided by 85 operators and 23 national authorities from 26 Member States. The stakeholders' contributions are generally in line with the views of the Commission. It should be noted that the stakeholders provided not only their views on the effectiveness, efficiency, relevance and coherence of Regulation 302/2005, but also suggestions for its revision.

[11] Authorities specified in Article 79 of the Euratom Treaty.

In addition to the targeted consultations, the Member States were consulted at the level of the Nuclear Safeguards Implementation (Chapter VII, EURATOM Treaty) Expert Group[12].

The stakeholders' views and suggestions have been carefully considered and taken into account in the proposal for the new Regulation.

- **Collection and use of expertise**

The views of the wider nuclear safeguards community on the aspects related to the implementation of the Regulation, gathered during the evaluation, in particular from the European Safeguards Research and Development Association[13] (ESARDA), have ensured a revision of Regulation 302/2005 based on the best available knowledge.

In addition, the shared experience of Finland and Belgium in applying the 'safeguards-by-design' concept was duly considered in the revision of Regulation 302/2005, including the White Paper on Safeguards by Design of the Finnish Radiation and Nuclear Safety Authority (STUK) and Belgium's Federal Agency for Nuclear Control (FANC).

- **Impact assessment**

The proposal follows the Commission's 'better regulation' guidelines. However, referring to the Evaluation and the sensitivity of the Euratom safeguards information, as well as the highly technical and very specific provisions of Regulation 302/2005, some tools, in particular impact assessment, implementation plan, call for evidence and public consultation, were not implemented.

Based on all the necessary analysis and supporting evidence, the Evaluation concluded that a targeted revision of Regulation 302/2005 should be considered. The Evaluation also demonstrated that a possible revision only of the Commission Recommendations[14], adopted under Article 37 of Regulation 302/2005, would not suffice.

In this context, a targeted revision of Regulation 302/2005 is the only and most appropriate solution available for the Commission, which responds to the conclusions of the Evaluation.

- **Regulatory fitness and simplification**

The benefits of Regulation 302/2005 are significant even if intangible since the aim is to prevent low probability events, which could potentially have very significant consequences for public security. Nuclear non-proliferation, including non-diversion of nuclear materials, is a high-level political goal. The Evaluation demonstrated that the application of Euratom safeguards under Regulation 302/2005 is done in an efficient way, with nevertheless some potential for clarification, simplification and reduction of administrative burden for operators.

In line with the conclusions of the evaluation, the new Regulation provides for a more graded approach in nuclear material reporting, including derogations, thus for burden reduction for operators. In addition, the introduced new requirements for an increased use of digital tools, in

12 https://ec.europa.eu/transparency/expert-groups-register/screen/expert-groups/consult?lang=en&groupID=1084

13 https://esarda.jrc.ec.europa.eu/index_en

14 Commission Recommendation of 15 December 2005 on guidelines for the application of Regulation (Euratom) No 302/2005 on the application of Euratom safeguards (2006/40/Euratom), OJ L 28, 1.2.2006, p.1-85, and Commission Recommendation of 11 February 2009 on the implementation of a nuclear material accountancy and control system by operators of nuclear installations (2009/120/Euratom), OJ L 41, 12.2.2009, p. 17-23.

particular for reporting and submission of declarations and other requested information, are expected to simplify the communication, further limit administrative burden and improve the quality and the timeliness of the collected data.

- **Fundamental rights**

The proposal does not affect any fundamental right enshrined in the Charter of Fundamental Rights of the European Union.

4. BUDGETARY IMPLICATIONS

The budgetary impact of this proposal will be covered within the agreed envelope of the nuclear safeguards prerogative on the budget line 12 20 04 01.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The revisions introduced with the new Regulation are limited in scope and targeted towards specific measures, which do not call for a separate implementation plan.

Article 37 of Regulation 302/2005 already requires the Commission to "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". This obligation for the Commission remains unchanged in the new Regulation. After the entry into force of the new Regulation, the Commission will revise accordingly the Recommendations adopted under Regulation 302/2005.

The Commission's approach to implementing Euratom safeguards is outlined in Commission staff working documents[15].

A first in-depth evaluation of the new Regulation could be expected no sooner than 8 years after its entry into force in light of the technological progress in the nuclear industry and developments in information technologies. However, under special circumstances, this new Regulation might need to be revised before that evaluation, as for example, to comply with any particular safeguarding obligations assumed by the Euratom Community under an agreement concluded with a third State or an international organisation.

- **Detailed explanation of the specific provisions of the proposal**

CHAPTER I - SCOPE AND DEFINITIONS"

Article 1 – Scope

The scope of the Regulation has been expanded to include installations for disposal of spent fuel and waste, and to any person or undertaking holding, exporting, importing or transferring items other than nuclear material, if such items are subject to the Nuclear Cooperation Agreements. These changes aim to bring more clarity and capitalize on the experience gained

[15] Commission Staff Working Documents *on the principles and modalities of the implementation of the European Commission's nuclear safeguards tasks "Implementing Euratom Treaty Safeguards"*, SEC (2007) 293, and *on the revised Implementation of Euratom Treaty Safeguards (IETS)*, SWD (2021) 215 final.

from the implementation of these agreements. In addition, the term 'end products' has been clarified.

Article 2 – Definitions

Definitions have been revised and/or introduced for the purpose of clarity, such as 'operator' and 'categories' (of nuclear material), and in view of the changes in the EU membership, such as 'non-nuclear-weapon Member States' and 'nuclear-weapon Member State'. The definitions of 'installation' and 'site' have been updated in view of the expanded scope of the new Regulation and for a better alignment with the IAEA definitions. In addition, some existing definitions have been revised for a better alignment with Euratom directives under Chapter 3 of the Euratom Treaty as well as with IAEA terminology, such as 'waste', 'retained waste', 'conditioned waste' and 'discards to the environment'.

New definitions have been introduced for the purpose of (new requirements) properly addressing: installations holding small amounts of nuclear materials, such as 'Location Outside Facilities' (LOF), 'National Location Outside Facilities' and 'Catch All MBA (CAM)'; the particularities of spent fuel and waste disposal, such as 'spent fuel' and 'disposal'; particularities related to nuclear material accounting, such as 'equivalence principle', 'equivalence criteria', 'proportionality principle', 'pool accounting' and 'accountancy pool'. These changes aim to bring clarity and capitalize on the experience gained from the implementation of Regulation 302/2005 and of the Nuclear Cooperation Agreements.

CHAPTER II - BASIC TECHNICAL CHARACTERISTICS AND PARTICULAR SAFEGUARD PROVISIONS

Article 3 - Declaration of the basic technical characteristics

Article 3(1) has been revised for the purpose of clarity and to introduce new requirements for submitting declarations in electronic form and providing requested additional information. Former Article 3 paragraphs 2 and 3 have been replaced by new Article 6.

Article 4 - Time-limits for the initial declaration of the basic technical characteristics

This article has been revised to introduce new time-limits in the context of 'safeguards-by-design', as well as for approval of the techniques to be used for the chemical processing of irradiated materials according to Article 78 of the Euratom Treaty. In addition, former Article 4 has been partially replaced (changes to the basic technical characteristics) by new Article 5.

Article 5 - Declaration of changes to the basic technical characteristics (new)

This is a new dedicated article that replaces partially former Article 4. New requirements are introduced in the context of 'safeguards-by-design', including for decommissioning.

Article 6 - Declaration of a general description of the site (new)

This is a new dedicated article that partially replaces former Article 3. New requirements are introduced to the unchanged text of former Article 3(2) and (3), regarding submitting declarations in electronic form and providing requested additional information.

Article 7 - Programme of activities (former Article 5)

This article has been slightly revised. A derogation for users of small amounts of nuclear material, a deadline for submitting the programme of activity, and a requirement for providing the programme in electronic form are introduced.

Article 8 - Particular safeguard provisions (former Article 6)

This article has been slightly revised. The option to have one Commission decision setting out particular safeguard provisions addressed to all users of small amounts of nuclear materials is introduced. In addition, the reimbursement provisions have been clarified regarding the principle of non-retroactive payments as well as the non-profit principle in the reimbursement agreements.

CHAPTER III - NUCLEAR MATERIAL ACCOUNTANCY

Article 9 - Accounting system (former Article 7)

This article has been slightly revised. The requirements for accounting systems and retention times of records have been clarified. A requirement for providing an up-to-date list of inventory items in electronic form upon request by Commission's inspectors is introduced, with a derogation for users of small amounts of nuclear materials. A format of the list of inventory items is introduced in new Annex X.

Article 10 - Operating records (former Article 8)

This article has been slightly revised. Requirements for quality control and provision of copies of the records upon request by Commission's inspectors are introduced.

Article 11 - Accounting records (former Article 9)

The article remains unchanged.

Article 12 - Accounting reports (former Article 10)

The article has only been updated with regard to the definition of 'operator'.

Article 13 - Initial book inventory (former Article 11)

This article has been revised to apply only to users of nuclear materials from States acceding to the EU and to clarify their obligations including regarding nuclear materials previously considered as retained waste and nuclear materials previously exempted from IAEA safeguards.

Article 14 - Inventory change report (former Article 12)

The article has only been updated with regard to the definition of 'operator'.

Article 15 - Material balance report and physical inventory listing (former Article 13)

This article has been slightly revised to clarify the physical inventory listing.

Article 16 – Special reports (former Article 14)

The article has only been updated with regard to the definition of 'operator'.

Article 17 - Unusual occurrences (former Article 15)

This article has been revised to introduce requirements for the content of the special reports, including a reference to the particular safeguard provisions.

Article 18 - Reporting of nuclear transformations (former Article 16)

The article remains unchanged.

Article 19 - Particular safeguard obligations (former Article 17)

This article has been revised to introduce requirements for providing obligation codes in records and for compliance with the proportionality principle, in line with the Nuclear Cooperation Agreements.

Article 20 - Pool accounting and obligation exchanges (new)

This is a new dedicated article on pool accountancy and obligation exchanges. Although this is a new article, the provisions are in line with a longstanding practice allowing the obligations of the Community stemming from Nuclear Cooperation Agreements to remain fulfilled. A format of requests for authorising an exchange of obligations is introduced in new Annex XVI.

Article 21 - Weight units and categories of nuclear materials (former Article 18)

The article remains unchanged.

Article 22 – Derogations (former Article 19)

This article has been revised to remove the derogation on form and harmonise the derogation for all users of small nuclear materials (i.e. CAM holders and LOFs).

CHAPTER IV - TRANSFERS BETWEEN STATES

Article 23 - Exports and shipments (former Article 20)

This article has been revised to introduce the concept of prior consent which reflects a longstanding requirement in the Nuclear Cooperation Agreements.

Article 24 - Imports and receipts (former Article 21)

The article has only been updated with regard to the definition of 'operator'.

Article 25 - Loss or delay during transfer (former Article 22)

This article has been revised to introduce a reference to particular safeguard provisions.

Article 26 - Communication of change of date (former Article 23)

The article remains unchanged.

CHAPTER V - SPECIFIC PROVISIONS

Article 27 - Ore producers (former Article 24)

The article has been revised with regard to the time-limits for declaring the basic technical characteristics of the ore extraction operations.

Article 28 - Ore shipment/export reports (former Article 25)

The article has only been updated with regard to the definition of 'operator'.

Article 29 - Carriers and temporary storage agents (former Article 26)

The article has only been updated with regard to the definition of 'operator'.

Article 30 - Substitute records for carriers and temporary storage agents (former Article 27)

The article remains unchanged.

Article 31 – Intermediaries (former Article 28)

The article remains unchanged.

Article 32 - Transmission of information and data (former Article 29)

The article remains unchanged.

Article 33 - Waste initial stock list and accounting records (former Article 30)

The first paragraph of this article has been revised to apply only to conditioned waste in States acceding the EU, which is sufficient in view of the requirements already formulated in Article 13.

Article 34 - Processing of waste (former Article 31)

The article has only been updated with regard to the definition of 'operator'.

Article 35 - Transfers of conditioned waste (former Article 32)

The second paragraph of this article has been revised for the purpose of clarity.

Article 36 - Termination of safeguards (new)

This is a new dedicated article on termination of safeguards.

Article 37 - Transfers and inventories of items other than nuclear material (new)

This is a new dedicated article on transfers of items other than nuclear material, aimed to ensure that the corresponding obligations of the Community stemming from Nuclear Cooperation Agreements remain fulfilled. Formats of notifications of non-nuclear material, nuclear equipment, or nuclear technology if such items are subject to any Nuclear Cooperation agreement are introduced in new Annex XVII.

Article 38 - National LOF (new)

This is a new dedicated article on provisions for national LOFs. These provisions are in line with the current practice and take account of the experience gained by the Commission in contact with the authorities of Member States that implement national LOFs.

Article 39 - International obligations (former Article 33)

The article has been revised to take account of specific requirements stemming from Nuclear Cooperation Agreements and from Safeguards Agreements with the IAEA.

CHAPTER VI - SPECIFIC PROVISIONS APPLICABLE IN THE TERRITORY OF THE NUCLEAR-WEAPON MEMBER STATE

Article 40 - Specific provisions for the nuclear-weapon Member State (former Article 34)

The article has been revised to introduce requirements for a possible derogation on shipping documents and for decommissioning of installations or parts of installations which are liable to be assigned to meet defence requirements, taking account of the experience gained in applying Euratom safeguards.

CHAPTER VII - FINAL PROVISIONS

Article 41 - Confidentiality of data (former Article 35)

The article has been updated with regard to the Commission rules, including the replaced and repealed Commission Decision.

Article 42 - Installations controlled from outside the Community (former Article 36)

The article remains unchanged.

Article 43 – Implementation and monitoring (former Article 37)

The article has been revised to introduce a requirement for an evaluation of the Regulation.

Article 44 – Repeal (former Article 38)

The article has only been updated with regard to the repealed Regulation.

Article 45 - Transitional period (former Article 39)

The article has been revised to refer only to granting an exemption from the obligation to use the dedicated format for the list of inventory items.

Article 46 - Entry into force (former Article 40)

The article remains unchanged.

ANNEX I - QUESTIONNAIRE FOR THE DECLARATION OF THE BASIC TECHNICAL CHARACTERISTICS (BTC) OF THE INSTALLATIONS

The questionnaires under this Annex have been revised on the basis of the latest Design Information Questionnaires of the IAEA (when available), in the context of 'safeguards-by-

design' concept, including decommissioning, and with regard to the definition of 'disposal'. In addition, the questionnaires have been revised as follows:

I-A RESEARCH AND POWER REACTORS

The scope of this questionnaire has been expanded to include research reactors.

I-B CRITICAL AND SUB-CRITICAL INSTALLATIONS

The scope of this questionnaire has been expanded to all sub-critical installations.

I-C CONVERSION AND FUEL FABRICATION INSTALLTIONS

The reprocessing installations have been removed from the scope of this questionnaire.

I-D REPROCESSING INSTALLATIONS (new)

This questionnaire partially replaces former I-C questionnaire.

I-E ISOTOPIC ENRICHMENT INSTALLATIONS

This questionnaire replaces former I-E ISOTOPE SEPARATION INSTALLATIONS questionnaire.

I-F RESEARCH AND DEVELOPMENT (R&D) INSTALLATIONS (new)

This is a dedicated questionnaire for R&D installations.

I-G STORAGE INSTALLATIONS (former I-D)

This questionnaire replaces former I-D STORAGE INSTALLATIONS questionnaire.

I-H WASTE TREATMENT, STORAGE AND DISPOSAL INSTALLATIONS

The scope of this questionnaire has been expanded to include waste disposal installations other than geological repositories.

I-J SPENT FUEL ENCAPSULATION INSTALLATIONS (new)

This is a dedicated questionnaire for spent fuel encapsulation installations. The former I-J OTHER INSTALLATIONS has been deleted.

I-K GEOLOGICAL REPOSITORIES (new)

This is a dedicated questionnaire for geological repositories for disposal of spent fuel and waste.

I-L LOCATION OUTSIDE FACILITIES (LOF) (new)

This is a dedicated questionnaire for LOFs.

I-M NATIONAL LOCATION OUTSIDE FACILITIES (NATIONAL LOF) (new)

This is a dedicated questionnaire for national LOFs.

I-N INSTALLATIONS CANDIDATE MEMBERS OF THE CATCH ALL MBA (CAM) (former I-G)

The former questionnaire I-G INSTALLATIONS CANDIDATE MEMBERS OF THE CATCH ALL MBA (CAM) has been updated.

I-P OTHER INSTALLATIONS USING NUCLEAR MATERIAL IN QUANTITIES EXCEEDING ONE EFFECTIVE KILOGRAM (former I-F)

The former questionnaire I-F INSTALLATIONS USING NUCLEAR MATERIAL IN QUANTITIES EXCEEDING ONE EFFECTIVE KILOGRAM has been updated.

I-Q ORE PRODUCERS (new)

This questionnaire is the same as for the former I-J OTHER INSTALLATIONS.

ANNEX II - GENERAL DESCRIPTION OF THE SITE

This annex has been slightly revised to include a required electronic reporting.

ANNEX III - INVENTORY CHANGE REPORT (ICR)

This annex has been revised to include new IC codes for nuclear material arising during decommissioning, transfers to geological repositories and termination of safeguards. The IC code for balance adjustment, which was not used in practice and had led to confusion, is removed.

ANNEX IV - MATERIAL BALANCE REPORT (MBR)

This annex has been revised to include new IC codes for nuclear material arising during decommissioning, transfers to geological repositories, retrievals from geological repositories and termination of safeguards. The IC code for balance adjustment is removed.

ANNEX V - PHYSICAL INVENTORY LISTING (PIL)

This annex remains unchanged.

ANNEX VI - ADVANCE NOTIFICATION OF EXPORTS/SHIPMENTS OF NUCLEAR MATERIAL

This annex has been slightly revised to include required electronic transmission.

ANNEX VII - ADVANCE NOTIFICATION OF IMPORTS/RECEIPTS OF NUCLEAR MATERIAL

This annex has been slightly revised to include required electronic transmission.

ANNEX VIII - REPORT OF ORE EXPORTS/SHIPMENTS

This annex has been slightly revised to include required electronic transmission.

ANNEX IX - REQUEST FOR DEROGATION OF AN INSTALLATION FROM THE RULES GOVERNING THE FREQUENCY OF NOTIFICATIONS

This annex has been slightly revised to include required electronic transmission.

ANNEX X - LIST OF INVENTORY ITEMS (new)

This is a new annex dedicated to the required content and electronic format of a list of inventory items.

The former ANNEX X - ANNUAL REPORT OR EXPORT REPORT FOR DEROGATED NUCLEAR MATERIAL has been deleted, in line with the revised approach towards derogation.

ANNEX XI - OUTLINE PROGRAMME OF ACTIVITIES

This annex has been slightly revised to include required electronic transmission.

ANNEX XII - ADVANCE NOTIFICATION OF FURTHER WASTE PROCESSING ACTIVITIES

This annex has been slightly revised to include required electronic transmission.

ANNEX XIII - ANNUAL REPORT OF EXPORTS/SHIPMENTS OF CONDITIONED WASTE

This annex has been slightly revised to include a required electronic transmission.

ANNEX XIV - ANNUAL REPORT OF IMPORTS/RECEIPTS OF CONDITIONED WASTE

This annex has been slightly revised to include required electronic transmission.

ANNEX XV - ANNUAL REPORT ON CHANGES OF LOCATION OF CONDITIONED WASTE

This annex has been slightly revised to include required electronic transmission.

ANNEX XVI - REQUEST FOR AUTHORISING AN EXCHANGE OF SAFEGUARD OBLIGATIONS ON NUCLEAR MATERIAL (new)

This is a dedicated new annex, which lays out the information needed to request for the authorisation of an exchange of safeguard obligations on nuclear material.

ANNEX XVII - NOTIFICATION OF TRANSFER OF ITEMS OTHER THAN NUCLEAR MATERIAL (new)

This is a dedicated new annex, which outlines notification obligations in case of transfer of non-nuclear material, nuclear equipment or nuclear technology if such items are subject to any Nuclear Cooperation Agreement. It takes account of the experience gained by the Commission in implementing the agreements and corresponds to ordinary information requested when exporting/importing or retransferring items other than nuclear material subject to the agreements.

2023/0465 (NLE)

Proposal for a

COUNCIL DECISION

approving a Commission Regulation (Euratom) on the application of Euratom safeguards

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 79 thereof,

Having regard to the proposal from the European Commission,

Whereas:

It is important to keep the requirements imposed by Commission Regulation (Euratom) No 302/2005 of 8 February 2005 on the application of Euratom safeguards[16] in line with the present legal framework and developments in the fields of nuclear and information technology,

HAS ADOPTED THIS DECISION:

Sole Article

The Commission Regulation on the application of Euratom safeguards is hereby approved.

The text of the Regulation is attached to this Decision.

Done at Brussels,

For the Council
The President

[16] OJ L 54, 28.2.2005, p. 1. Regulation as last amended by Commission Regulation (EU) No 519/2013 of 21 February 2013 (OJ L 158, 10.6.2013, p. 74).