

AMENDMENT FORM

Suggestion for amendment of Article : III - Section 7a (new)

Suggestion for protocol :

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Status : - Member - Alternate

Section 7a (new)

SAFEGUARDS OF NUCLEAR MATERIAL

Article III-127a (new)

1. 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 organization are complied with.

2. 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 paragraph 1.

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 paragraph 1.

3. 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 paragraph 2 and to the first subparagraph of this paragraph.

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

4. 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.

5. 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 paragraph 1. 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 for an order to ensure that the inspection be carried out compulsorily. The President of the Court of Justice 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 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.

6. Inspectors shall be recruited by the Commission.

They shall be responsible for obtaining and verifying the records referred to in paragraph 3. 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 (*to be determined*), refer the matter to the Court of Justice direct.

7. 1. In the event of an infringement on the part of persons or undertakings of the obligations imposed on them by this Section, 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.

7.2. Decisions taken by the Commission in implementation of paragraph 7.1 and requiring the surrender of materials shall be enforceable.

By way of derogation from Article (*to be determined*), appeals brought before the Court of Justice against decisions of the Commission which impose any of the sanctions provided for in paragraph 1 shall have suspensory effect. The Court of Justice 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.

7.3. 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 Section.

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

8. 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 Section.

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.

9. Where new circumstances so require, the procedures for applying the safeguards laid down in this Section 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.

Explanation (if any) :

The safeguards chapter (Art. 77 -85) of the Euratom Treaty has been simply cut and paste into this new Section.