

## **Royal Decree of 24 March 2009 regulating import, transit and export of radioactive substances**

Having regard to the Constitution, article 108;

Having regard to the law relating to the 1979-1980 budgetary proposals, article 179.2;

Having regard to the law of 15 April 1994 on the protection of the general public and the environment against the hazards arising from ionising radiation and on the Federal Agency for Nuclear Control, particularly articles 3, 4, 5 and 18;

Having regard to the Royal Decree of 20 July 2001 laying down the General Regulation for the protection of the public, workers and the environment against the hazards of ionising radiation, particularly Chapters I, IV and VII, and article 81.4;

Having regard to Council Regulation (Euratom) No. 1493/93 of 8 June 1993 on shipments of radioactive substances between Member States;

Having regard to 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;

Having regard to Council Directive 2006/117/Euratom of 20 November 2006 on the supervision and control of shipments of radioactive waste and spent fuel;

Having regard to the opinion of the Superior Health Council, issued on 7 May 2008;

Having regard to the Communication to the European Commission on 26 June 2008;

Having regard to the opinion of the Inspector of Finance, issued on 14 October 2008;

Having regard to the agreement of the State Secretary for the Budget, given on 18 December 2008;

Having regard to the need for urgency, motivated by the fact that Directive 2006/117/Euratom had to be transposed into national law by 24 December 2008 at the latest and that the European regulations on the supervision and control of shipments of radioactive waste and spent fuel had to enter into force on 24 December 2008;

Whereas the competent department of the Federal Agency for Nuclear Control has already received files that shall, in principle, be dealt with under the new procedure;

Whereas the need for this legislation to enter into force as soon as possible on account of the fact that it concerns a sector, i.e. transport, which by its very nature involves contact with European countries in which the aforementioned Directive will be transposed into national law, and the need to use a uniform working method in order to avoid any practical problems;

Whereas the recommendations of the European Commission, which stipulate that timely and correct application of Community law is essential to maintain a strong foundation for the European Union and ensure that European policies have intended impacts, bringing benefits to citizens, and that the European institutions and Member States share an interest in keeping this foundation strong and need to make an even stronger commitment to assign high priority to the correct

application of law;

Whereas it is therefore appropriate to avoid application of article 226 of the EC Treaty and article 141 of the Euratom Treaty;

Having regard to opinion 46.033/3 of the Council of State, issued on 17 February 2009, pursuant to article 84.1, paragraph 1, 2°, of the laws on the Council of State, restated on 12 January 1973;

(...)

## **Chapter I Definitions and Scope**

### **Article 1 Definitions**

For the purposes of this Decree, the definitions given in article 2 of the Royal Decree of 20 July 2001 laying down the General Regulation for the protection of the public, workers and the environment against the hazards of ionising radiation shall apply.

Notwithstanding and in addition to those definitions, the following terms are defined as follows for the purposes of this Decree:

- radioactive waste: 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 of the countries of origin and destination;
- spent fuel: nuclear fuel that has been irradiated in and permanently removed from a reactor core;
- fissile materials: U-233, U-235, Pu-239, and Pu-241 radionuclides, or any combination of these radionuclides, with the exception of natural uranium and depleted uranium;
- reprocessing: a process or operation, the purpose of which is to extract radioactive isotopes from spent fuel for further use;
- shipment: all operations involved in transporting radioactive waste or spent fuel from the country of origin to the country of destination;
- Disposal: emplacement of radioactive waste or spent fuel in an installation without the intention of retrieval;
- storage: the holding of radioactive waste or spent fuel in an installation that provides for its containment, with the intention of retrieval;
- holder: any natural or legal person who, prior to shipping radioactive waste or spent fuel, is responsible for such materials and plans to transfer them to a consignee;
- consignee: any natural or legal person to whom radioactive waste or spent fuel is shipped;

- country of origin: any country from which a shipment is planned or takes place;
- country of destination: any country to which a shipment is planned or takes place;
- country of transit: any country other than the country of origin or the country of destination, through the territory of which a shipment is planned or takes place;
- competent authorities: any authority which, under the law or regulations of the countries of origin, transit or destination, is empowered to implement the supervision and control system of shipments of radioactive waste or spent fuel;
- disused sealed source: a sealed source which is no longer used or intended to be used for the practice for which licence was granted;
- recognised installation: an installation located in the territory of a country and licensed by the competent authorities of that country in accordance with national law for the long-term storage or disposal of sealed sources;
- standard document: the document established by the European Commission pursuant to Council Directive 2008/117/Euratom of 20 November 2006 on the supervision and control of shipments of radioactive waste and spent fuel;
- General Regulations: General Regulations on the protection of the general public, workers and the environment against the hazards of ionising radiation, laid down by the Royal Decree of 20 July 2001.
- exemption levels: activity or activity concentration values stipulated in Annex IA of the General Regulations, taking into account the application criteria described in the same Annex, particularly for combinations of radionuclides.

## **Article 2 Scope**

This Decree shall apply to:

- the import of any radioactive substances whose activity or concentration is higher than the exemption levels;
- the transit and export of radioactive waste and spent fuel whose activity or concentration is higher than the exemption levels;
- the export of materials or equipments that have been activated or contaminated by radioactive substances, for the purpose of decontamination or physical or chemical treatment likely to generate radioactive waste that shall be returned to Belgium.

This Decree shall not apply to:

- the import of radioactive substances carried out as part of activities referred to in article 5.7 of the General Regulations and during which the radioactive substances are not shipped to

another user;

- the import of natural radiation sources, when the natural radionuclides they contain are not or have not been processed in view of their radioactive, fissile or fertile properties, on condition that the activity or activity concentration does not exceed the exemption level; with regard to the U-238sec and the Th-232sec series, the activity or activity concentration shall not exceed 10 times the exemption level.

## **Chapter II General provisions relating to import**

### **Article 3 Registration of the importer**

3.1.

Radioactive substances may only be imported by a natural or legal person registered with the Agency.

3.2.

The following information shall be provided with an application for registration:

- the identity of the importer;
- the nature of the radioactive substances (sealed or unsealed sources, radioactive or non-radioactive waste, fissile or non-fissile materials, spent or unspent fuel, whether or not incorporated into an equipment, etc.) that he plans to import, as well as their field of application; the importer should also indicate whether these materials are imported for his own use or for delivery to third parties;
- the frequency of the planned imports;
- a declaration in which the importer undertakes to deliver and entrust the transport of the imported radioactive substances only to a natural or legal person who has confirmed to the importer in writing that he is duly licensed under the General Regulations.

If the importer is a licensee under the General Regulations and imports radioactive substances for his own use or temporarily stores them prior to delivery to third parties, he shall also provide the number and date of the relevant construction and operating licence(s).

Any importer who is a licensee under the General Regulations and who imports only sealed sources for his own use shall be exempt from registration.

The Agency may determine the type of form that shall be used in the registration application.

3.3.

Should the Agency consider that the registration application ought to be granted, a registration number shall be issued and the importer shall be notified.

Should the Agency consider that the registration application ought not to be granted, the applicant shall be notified. He shall be informed that he has the right to be heard within 30 calendar days of such notification.

If need be, the person concerned shall be heard by the Agency, which shall take into account any additional information provided in delivering its decision.

Should the applicant fail to exercise his right to be heard, the Agency shall automatically refuse registration.

3.4.

The Agency shall be immediately informed of any changes to the data provided in the application for registration.

Should the Agency consider that the changes ought to be accepted, the importer shall be notified.

Should the Agency consider that the changes ought not to be accepted, the registrant shall be notified. He shall be informed that he has the right to be heard within 30 calendar days of such notification.

If need be, the person concerned shall be heard by the Agency, which shall take into account any additional information provided in delivering its decision.

Should he fail to exercise his right to be heard, the Agency shall automatically refuse the registration changes.

3.5.

If the registered importer stops his business activities, he shall notify the Agency of this forthwith.

#### **Article 4 Records and reports**

A registered importer shall keep records of the import of radioactive substances, specifically mentioning the name and address of the consignee, the import date and the quantities imported. He shall send a summary to the Agency at regular intervals. The reporting frequency shall be determined by the Agency based on the data provided in the application for registration. The practical arrangements for reporting shall be established by the Agency.

#### **Article 5 Customs offices**

The import of radioactive substances from a country outside the European Union may only proceed through customs offices designated by the Agency, subject to the approval of the Minister responsible for Finance.

## **Chapter III Import of radioactive substances other than radioactive waste, spent fuel and fissile materials**

### **Article 6 Scope**

This Chapter shall apply to radioactive substances in the form of sealed sources that do not fall under Chapters IV and V of this Decree.

### **Article 7 Sealed sources**

7.1.

Radioactive substances in the form of sealed sources, as referred to in article 6, whose activity exceeds the exemption levels, may only be imported by a natural or legal person who has been registered and granted prior licence for this purpose by the Agency.

7.2.

The application for licence may cover a single import or a series of imports carried out over a specified period, which may not, however, exceed three years.

The application shall be submitted to the Agency at least 20 working days before the single import or the first of a series of imports.

The following information shall be provided with the application:

- the identity and registration number of the importer;
- the name of the radioactive substances he plans to import, their activity, their physical and chemical state and their field of application;
- the identity of the importer(s) of the radioactive substances;
- where appropriate, the number of imports planned and the period over which they will take place.

The European standard document, as referred to in Council Regulation (Euratom) No. 1493/93 of 8 June 1993 on shipments of radioactive substances between Member States, shall be used for imports from another Member State of the European Union.

The Agency may determine the type of form that shall be used in the application for licence for imports from a State outside the European Union.

7.3.

Should the Agency consider that the import cannot be licensed, the importer shall be notified. The applicant shall be informed that he has the right to be heard within two weeks of such notification.

If need be, the person concerned shall be heard by the Agency, which shall take into account any additional information provided in delivering its decision.

Should the applicant fail to exercise his right to be heard, the Agency shall automatically refuse to grant licence.

#### **Chapter IV Import of fissile materials**

##### **Article 8 Scope**

This Chapter shall apply to fissile materials that do not fall under Chapter V of this Decree.

This Chapter shall not apply to sources used for testing and calibrating measuring instruments, provided that the mass of the fissile materials does not exceed 10 milligrams.

##### **Article 9 Licence**

9.1.

Fissile materials, as referred to in article 8, whose activity or concentration exceeds the exemption levels, may only be imported by a natural or legal person who has been granted prior licence for this purpose by the Agency.

The licence application may cover a single import or a series of imports carried out over a specified period, which may not, however, exceed three years.

The application shall be submitted to the Agency at least 20 working days before the single import or the first of a series of imports.

9.2.

The following information shall be provided with the application:

- the identity of the importer;
- the identity of the consignee;
- the name of the fissile materials intended for import, their physical and chemical state, their mass, their activity (per import) and their field of application;
- the identification mark of the package designs and the number of packages of each design;
- the date or the period planned for the import(s) and, where appropriate, the frequency and number;
- the transporter(s) who will be involved in the transport.

The Agency may determine the forms that shall be used for the application.

9.3.

Should the Agency consider that the requested licence cannot be granted, the applicant shall be notified. He shall be informed that he has the right to be heard within two weeks of such

notification.

If need be, the person concerned shall be heard by the Agency, which shall take into account any additional information provided in delivering its decision.

Should the applicant fail to exercise his right to be heard, the Agency shall automatically refuse to grant licence.

## **Chapter V Shipment of radioactive waste and nuclear spent fuel**

### **Article 10 Scope**

This Chapter shall not apply to shipments of:

- disused sources to be shipped to a supplier or manufacturer of sealed sources or to a recognised installation;
- radioactive substances recovered, through reprocessing, for further use;
- waste that contains only naturally occurring radioactive substances, which do not result from practices.

### **Article 11 General provisions**

11.1.

The shipment of radioactive waste and nuclear spent fuel shall be subject to prior licence granted in accordance with articles 12-17 of this Decree.

11.2.

Licence applications shall be submitted to the Agency by means of the standard document.

Should the Agency consider that the standard document is not duly completed, it shall return this document with a request for further information.

11.3.

If the applicant is established in Belgium, the opinion of ONDRAF/NIRAS shall be included with import and export applications.

11.4.

The completed standard document and any annexes certifying that the licence procedure has been duly complied with shall accompany each shipment falling under the scope of this Chapter, including cases where the licence relates to more than one shipment in a single document.

## **Article 12 Exports to Member States of the European Union**

### 12.1.

The holder shall submit an application for licence of export of radioactive waste or nuclear spent fuel to a Member State of the European Union.

The application may cover more than one shipment, provided that:

- a. the radioactive waste or spent fuel to which it relates essentially has the same physical, chemical and radioactive characteristics;
- b. the shipments are to be made from the same holder to the same consignee and involve the same competent authorities;
- c. where shipments involve transit through third countries, such a transit shall be via the same frontier post of entry to and/or exit from the European Union and via the same frontier post(s) of the third country or countries concerned, unless otherwise agreed between the competent authorities concerned.

### 12.2.

If the Agency cannot agree to the planned shipment, the application shall not be sent to the competent authorities of the Member State of destination or of the Member States of transit, if any. The applicant shall be notified accordingly and shall be informed that he has the right to be heard within 30 calendar days of such notification.

If need be, the person concerned shall be heard by the Agency, which shall take into account any additional information provided in delivering its decision.

Should the applicant fail to exercise his right to be heard, the Agency shall automatically refuse to grant licence.

### 12.3.

If the Agency agrees to the planned shipment, it shall send the duly completed application, for consent, to the competent authorities of the Member State of destination and of the Member States of transit, if any.

If the competent authorities of a Member State concerned request it, the Agency shall send them further information and shall copy it to all the other competent authorities concerned.

If, upon expiry of a period of two months from the date of acknowledgement of receipt of the application, or, where applicable, of further information, by the authorities concerned in the country of destination, no response has been received from the competent authorities concerned, those competent authorities shall be deemed to have given their consent for the shipment requested.

### 12.4.

If the competent authority of a Member State concerned refuses to grant consent, the Agency shall

refuse the licence and shall inform the holder, ONDRAF/NIRAS and the competent authorities of all the countries concerned.

If all the consents necessary for shipment have been given, the Agency may license the holder to carry out the shipment. The Agency may set conditions for licence. In all cases, the conditions set by the competent authorities of the Member States concerned shall be included in the licence. The Agency shall inform the competent authorities of the Member States concerned and also ONDRAF/NIRAS.

This licence 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.

The licence may cover more than one shipment, where the conditions set out in article 12.1 are met.

Any licence shall be valid for a period of not more than three years. When establishing the period of validity, the Agency shall take into account any conditions set by the competent authorities concerned for giving their consent.

The Agency shall send the original holder a copy of the confirmation of completion of each shipment it has received from the competent authorities of the Member State of destination.

12.5.

The Agency may decide that the shipment may not be completed if the conditions for shipment are no longer complied with or are not in accordance with the licences or consents issued.

Where a shipment cannot be completed or if the conditions for shipment are not complied with, the Agency 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. The Agency shall ensure that the person responsible for the shipment takes corrective safety measures where necessary.

The holder shall be liable for costs arising in cases where the shipment cannot or may not be completed.

### **Article 13 Exports to third countries**

13.1.

It is prohibited to export radioactive waste and spent fuel:

- a. to a destination south of latitude 60° south;
- b. to a State which is party to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States, on the one hand, and the European Community and its Member States, on the other hand (Cotonou ACP-EC Agreement), which is not a Member State, except in the case of radioactive waste produced during treatment in Belgium of radioactive waste or spent fuel from these States;

- c. to a third country which does not, in the opinion of the Agency, in accordance with the criteria established by the European Commission under article 16.2 of Directive 2006/117/Euratom and taking into account any relevant information from other Member States, have the administrative and technical capacity and regulatory structure to manage the radioactive waste or spent fuel safely, as stated in the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management.

#### 13.2.

The application for export to a country outside the European Union shall be submitted by the holder.

The application may cover more than one shipment, where the conditions set out in article 12.1 are met.

#### 13.3.

If the Agency cannot agree to a planned shipment, the application shall not be sent to the competent authorities of the country of destination or of the Member States of transit, if any. The applicant shall be notified accordingly and shall be informed that he has the right to be heard within 30 calendar days of such notification.

If need be, the person concerned shall be heard by the Agency, which shall take into account any additional information provided in delivering its decision.

Should the applicant fail to exercise his right to be heard, the Agency shall automatically refuse to grant licence.

#### 13.4.

If the Agency agrees to the planned shipment, it shall notify the competent authorities of the country of destination of the planned shipment and ask their consent. It shall also send the application, for consent, to the competent authorities of the Member States of transit, if any.

If the competent authorities of a country concerned request it, the Agency shall send them further information and shall copy it to all the other competent authorities concerned.

If, upon expiry of a period of two months from the date of submission of the application, or, where applicable, of further information, no response has been received from the competent authorities concerned, those competent authorities shall be deemed to have given their consent for the shipment requested.

#### 13.5.

If the competent authorities of a Member State concerned refuse to grant consent, the Agency shall refuse the licence and shall inform the holder, ONDRAF/NIRAS and the competent authorities of all the countries concerned.

If all the consents necessary for shipment have been given, the Agency may license the holder to carry out the shipment. The Agency may set conditions for licence. In all cases, the conditions set by the competent authorities of the Member States concerned shall be included in the licence. The

Agency shall inform the competent authorities of the country of destination and of all the countries of transit, as well as ONDRAF/NIRAS.

This licence 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.

The licence may cover more than one shipment, where the conditions set out in article 12.1 are met.

Any licence shall be valid for a period of not more than three years. When establishing the period of validity, the Agency shall take into account any conditions set by the competent authorities concerned for giving their consent.

13.6.

The holder shall notify the Agency that the radioactive waste or spent fuel has reached its destination in the third country within 15 calendar days of the date of arrival and shall indicate the last customs office in the European Union through which the shipment passed.

The notification shall be substantiated by a declaration or certification from the consignee stating that the radioactive waste or spent fuel has reached its appropriate destination and indicating the customs office of entry in the third country.

13.7.

The Agency may decide that the shipment may not be completed if the conditions for shipment are no longer complied with or are not in accordance with the licences or consents issued.

Where a shipment cannot be completed or if the conditions for shipment are not complied with, the Agency 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. The Agency shall ensure that the person responsible for the shipment takes corrective safety measures where necessary.

The holder shall be liable for costs arising in cases where the shipment cannot or may not be completed.

#### **Article 14 Imports from a third country**

14.1.

Where radioactive waste or spent fuel is imported from a third country, the consignee shall submit a licence application.

The application may be sent in respect of more than one shipment, where the conditions set out in article 12.1 are met.

The application shall include evidence that the consignee has made an arrangement with the holder established in a third country, which has been accepted by the competent authorities of that third country, obliging the holder to take back the radioactive waste or the spent fuel where a shipment

cannot be completed.

#### 14.2.

If the Agency cannot agree to the planned shipment, the application shall not be sent to the competent authorities of the Member States of transit, if any. The applicant shall be notified accordingly and shall be informed that he has the right to be heard within 30 calendar days of such notification.

If need be, the person concerned shall be heard by the Agency, which shall take into account any additional information provided in delivering its decision.

Should the applicant fail to exercise his right to a hearing, the Agency shall automatically refuse to grant licence.

#### 14.3.

Should the Agency consider that the standard document is duly completed and that the planned shipment can be agreed to, it shall send the application, for consent, to the competent authorities of the Member States of transit, if any, within 30 calendar days of receipt of the application.

If the competent authorities of a Member State concerned request it, the Agency shall send further information to those authorities and shall copy it to all the other competent authorities concerned.

If, upon expiry of a period of two months, no response has been received from the competent authorities concerned, those competent authorities shall be deemed to have given their consent for the shipment requested.

#### 14.4.

If the competent authority of a Member State concerned refuses to grant consent, the Agency shall refuse the licence and shall inform the holder, ONDRAF/NIRAS and the competent authorities of all the countries concerned.

If all the consents necessary for shipment have been given, the Agency may license the holder to carry out the shipment. The Agency may set conditions for licence. In all cases, the conditions set by the competent authorities of the Member States concerned for giving their consent shall be included in the licence. The Agency shall inform the competent authorities of the country of origin and of all the countries of transit, as well as ONDRAF/NIRAS.

This licence 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.

The licence may cover more than one shipment, where the conditions set out in article 12.1 are met.

Any licence shall be valid for a period of not more than three years. When establishing the period of validity, the Agency shall take into account any conditions set by the competent authorities concerned for giving their consent.

14.5.

Within 15 calendar days of receipt, the consignee of the radioactive waste or spent fuel shall send the Agency an acknowledgement of receipt for each shipment. The Agency shall send copies of the acknowledgement of receipt to ONDRAF/NIRAS and to the competent authorities of the country of origin and of the countries of transit, if any.

14.6.

The Agency may decide that the shipment may not be completed if the conditions for shipment are no longer complied with or are not in accordance with the licences or consents issued. It shall forthwith inform the competent authorities of the country of origin.

The consignee shall be liable for costs arising in cases where the shipment cannot or may not be completed.

#### **Article 15 Imports from a Member State of the European Union**

15.1.

Should the Agency consider that the standard document that it has received from the competent authority of the country of origin is duly completed, it shall send an acknowledgement of receipt to the competent authorities of the country of origin and copy it to the other competent authorities concerned, within 30 calendar days of receipt of the document.

Should the Agency consider that the standard document is not duly completed, it shall request the missing information from the competent authorities of the country of origin within 20 calendar days of receipt of the document and shall inform the other competent authorities concerned of its request.

Not later than 10 calendar days after the date of receipt of the missing information, the Agency 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.

The Agency shall send the duly completed standard document to ONDRAF/NIRAS for its opinion.

Not later than two months from the date of acknowledgement of receipt, the Agency shall take a decision, if necessary taking into account the opinion of ONDRAF/NIRAS, on the planned import and shall notify the competent authorities of the country of origin of its consent, or of the conditions it considers necessary for giving its consent, or of its refusal to grant consent. The Agency may, however, ask the competent authorities of the country of origin to extend this period by not more than one month.

15.2.

Within 15 calendar days of receipt of the radioactive waste or spent fuel, the consignee shall send the Agency an acknowledgement of receipt.

The Agency shall send copies of the acknowledgement of receipt to the competent authorities of the country of origin and of the countries of transit, if any.

15.3.

The Agency may decide that the shipment may not be completed if the conditions for shipment are no longer complied with or are not in accordance with the licences or consents issued.

It shall forthwith inform the competent authorities of the Member States concerned.

The holder shall be liable for costs arising in cases where the shipment cannot or may not be completed.

#### **Article 16 Transit from a Member State of the European Union to another Member State**

16.1.

Should the Agency consider that the standard document that it has received from the competent authorities of the country of origin is duly completed, it shall send an acknowledgement of receipt to the competent authorities of the country of origin within 30 calendar days of receipt.

Should the Agency consider that the standard document is not duly completed, it shall request the missing information from the competent authorities of the country of origin within 20 calendar days of receipt of the document and shall inform the other competent authorities concerned of its request.

Not later than two months from the date of acknowledgement of receipt of the application or, where applicable, of the missing information by the competent authorities of the country of destination, the Agency shall take a decision on the planned transit and shall notify the competent authorities of the country of origin of its consent, or of the conditions it considers necessary for giving its consent, or of its refusal to grant consent. The Agency may, however, ask the competent authorities of the country of origin to extend this period by not more than one month.

16.2.

If the Agency has given consent to transit for a given shipment, it 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 provisions are respected;
- b. under the circumstances described in article 12.5, if the reshipment is undertaken on the same conditions and with the same specifications.

16.3.

The Agency may decide that the shipment may not be completed if the conditions for shipment are

no longer complied with or are not in accordance with the licences or consents issued. It shall forthwith inform the competent authorities of the Member States concerned.

The holder shall be liable for costs arising in cases where the shipment cannot or may not be completed.

## **Article 17 Transit through the European Union**

### 17.1.

Where radioactive waste or spent fuel is to be imported from a third country into the European Union, where the country of destination is not a Member State of the European Union and where Belgium is the first Member State of transit, the licence application shall be submitted by the natural or legal person who has responsibility for managing the shipment within Belgium.

The application may be sent in respect of more than one shipment, where the conditions set out in article 12.1 are met.

The application shall include evidence that the consignee has made an arrangement with the holder, which has been accepted by the competent authorities of the country of origin, obliging the holder to take back the radioactive waste or the spent fuel where a shipment cannot be completed.

### 17.2.

If the Agency cannot agree to the planned shipment, the application shall not be sent to the competent authorities of the Member States of transit, if any. The applicant shall be notified accordingly and shall be informed that he has the right to be heard within 30 calendar days of such notification.

If need be, the person concerned shall be heard by the Agency, which shall take into account any additional information provided in delivering its decision.

Should the applicant fail to exercise his right to a hearing, the Agency shall automatically refuse to grant licence.

### 17.3.

If the Agency agrees to the planned shipment, it shall send the application, for consent, to the competent authorities of the other Member States of transit, if any.

If, upon expiry of a period of two months, no response has been received from the competent authorities concerned, those competent authorities shall be deemed to have given their consent for the shipment requested.

### 17.4.

If the competent authority of a Member State concerned refuses to grant consent, the Agency shall refuse the licence and shall inform the holder and the competent authorities of all the countries

concerned.

If all the consents necessary for shipment have been given, the Agency may license the person responsible referred to in article 17.1 to carry out the shipment. The Agency may set conditions for licence. In all cases, the conditions set by the competent authorities of the Member States concerned for giving their consent shall be included in the licence. The Agency shall inform the competent authorities of the country of origin and of the other countries of transit, if any.

This licence 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.

The licence may cover more than one shipment, where the conditions set out in article 12.1 are met.

Any licence shall be valid for a period of not more than three years. When establishing the period of validity, the Agency shall take into account any conditions set by the competent authorities concerned for giving their consent.

17.5.

The person responsible referred to in article 17.1 shall notify the Agency that the radioactive waste or spent fuel has reached its destination in the third country within 15 calendar days of the date of arrival and shall indicate the last customs office in the European Union 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 office of entry in the third country.

17.6.

The Agency may decide that the shipment may not be completed if the conditions for shipment are no longer complied with or are not in accordance with the licences or consents issued.

This decision shall be forthwith notified to the competent authorities of the country of origin.

The person responsible referred to in article 17.1 shall be liable for costs arising in cases where the shipment cannot or may not be completed.

17.7.

Where radioactive waste or spent fuel is to be imported from a third country into the European Union, where the country of destination is not a Member State of the European Union and where Belgium is not the first Member State of transit, the Agency shall follow the procedure described in Article 16. In this case, the "country of origin" is replaced by "Member State that is the first country of transit".

## **Article 18 Exports for treatment purposes**

The export, for the purpose of undergoing some form of physical or chemical treatment, of materials or equipments that have been activated or contaminated by radioactive substances, other than those to which articles 12 and 13 of this Decree apply, is subject to prior licence by the Agency if this treatment is likely to generate radioactive waste. The licence application shall be submitted by the holder by means of the form prescribed by the Agency. The Agency shall consult ONDRAF/NIRAS on the possibility of returning the waste and on its further management.

Should the Agency consider that it cannot grant the requested licence for export, it shall notify the applicant. He shall be informed that he has the right to be heard within 30 calendar days of such notification.

If need be, the person concerned shall be heard by the Agency, which shall take into account any additional information provided in delivering its decision.

Should the applicant fail to exercise his right to a hearing, the Agency shall automatically refuse to grant licence.

## **Chapter VI Final provisions**

### **Article 19 Suspension and withdrawal of registration and licences**

A registration may be wholly or partly revoked at any time upon decision of the Agency. The Agency shall give prior notice to the registrant of its intention to revoke registration, specifying that he has the right to be heard within a period set by the Agency.

If need be, the person concerned shall be heard by the Agency, which shall take into account any additional information provided in delivering its decision.

An licence may be wholly or partly suspended or withdrawn at any time upon decision of the Agency. The Agency shall give prior notice to the licence holder of its intention to suspend or withdraw the licence, specifying that he has the right to be heard within 30 calendar days of service of such notice.

If need be, the person concerned shall be heard by the Agency, which shall take into account any additional information provided in delivering its decision.

### **Article 20 Appeals**

The decisions of the Agency may be appealed to the Minister of Home Affairs within a period of 15 calendar days. The appeal shall be sent by registered post to the Minister of Home Affairs.

The appeal does not hold the Agency's decision in abeyance.

The Minister has three months in which to reach a decision.

### **Article 21 Enforcement provisions**

Contraventions of this Decree shall be investigated, established and prosecuted in accordance with the provisions of the law of 15 April 1994 on the protection of the general public against the hazards arising from ionising radiation and on the Federal Agency for Nuclear Control.

The Agency may also recover the storage and transport costs incurred by it from a person who imports, conveys in transit or exports radioactive substances in contravention of the provisions of this Decree.

### **Article 22 Repeals**

Chapter IV, article 81.4 and Annex IV of the Royal Decree of 20 July 2001 laying down general regulations for the protection of the general public, workers and the environment against the hazards of ionising radiation are repealed.

### **Article 23 Amendments**

The words “, transit” and “, import and export” shall be deleted from point 1 of the first paragraph of article 1 of the Royal Decree of 20 July 2001 laying down general regulations for the protection of the general public, workers and the environment against the hazards of ionising radiation.

In the final paragraph of article 57 of the same Decree, the provisions of point 4° shall be amended as follows:

(...)

A third paragraph shall be added to article 58.1 of the same Decree, worded as follows:

(...)

A point 12 shall be added to article 58.2 of the same Decree, worded as follows:

(...)

### **Article 24 Transitional provisions**

Licences for transit of radioactive substances other than radioactive waste issued under Chapter IV of the General Regulations are repealed.

The following are also repealed: licences for imports of radioactive substances carried out as part of activities referred to in article 5.7 of the General Regulations and during which the radioactive substances are not shipped to another user;

Other licences that have been issued under the General Regulations and expire before 1 January 2010 shall remain valid until the expiry of the validity period mentioned in the licence. All other

licences are repealed as of 1 January 2010.

Any licences applied for before the date on which this Decree enters into force shall be dealt with in accordance with the provisions of the General Regulations.

Any natural or legal persons who, on the date of entry into force of this Decree, hold a general import licence issued under Chapter IV of the General Regulations shall be automatically registered until 31 December 2009. Should they wish to extend their registration beyond this date, they must submit an application for registration under this Decree by no later than 31 August 2009.

#### **Article 25**

The Minister of Home Affairs shall be responsible for the implementation of this Decree.

UNOFFICIAL TRANSLATION