COMMISSION REGULATION (EURATOM) No 1352/2003

of 23 July 2003

amending Regulation (EC) No 1209/2000 determining procedures for effecting the communications prescribed under Article 41 of the Treaty establishing the European Atomic Energy Community

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Articles 41 to 44 thereof,

Having regard to Council Regulation (Euratom) No 2587/1999 of 2 December 1999 defining the investment projects to be communicated to the Commission in accordance with Article 41 of the Treaty [1],

Whereas:

(1) In order to increase transparency and legal certainty, it is necessary to strengthen existing rules and formalise practices applied by the Commission to conduct the discussions and examine the investment projects which relate to the objectives of the Euratom Treaty.

(2) The communication to the Commission of investment projects relating to new installations and also to replacements or conversions which fulfil the criteria laid down by the Council in Regulation (Euratom) No 2587/1999 should be made by means of a form, which can be sent in a paper version or an electronic version. In the interests of legal certainty, it is necessary to confirm to the persons or undertakings having submitted a communication that the Commission has received it.

(3) The period within which the Commission is required to examine, discuss and adopt its views pursuant to Article 43 of the Euratom Treaty should be set at two months from receipt of a complete communication. The remarks made by third parties should be transmitted by the Commission to the persons or undertakings concerned for possible reaction from them. In the interests of legal certainty, the examination and discussion should be brought to an end by a recommendation as provided for under Article 124 of the Euratom Treaty.

(4) In all cases where, as a result of a preliminary examination, the Commission finds that doubts exist as to the objectives of the Euratom Treaty in the light of Regulation (Euratom) No 2587/1999, a detailed examination and discussion procedure should be opened in order to enable the Commission to gather all the information it needs to comply with its tasks under the Euratom Treaty and to allow the persons and undertakings concerned to submit their comments.

(5) After having considered the comments submitted by the persons or undertakings concerned, the Commission should conclude its examination by adopting a recommendation as soon as doubts have been removed.

(6) In the interest of achieving a coordinated development of investment in the nuclear field, it is appropriate to monitor effectively the measures finally taken by persons or undertakings concerned pursuant to the recommendation adopted by the Commission.

(7) In order to ensure that the provisions of the Euratom Treaty are applied correctly and effectively, the Commission should be able to revoke its recommendation if it was based on incorrect information.

(8) It is appropriate to inform the public about investment projects whilst, at the same time, observing the principle laid down in Article 44 of the Euratom Treaty that the consent of Member States, persons and undertakings concerned is necessary. In the interests of transparency and of legal certainty, it is appropriate to publish all investment projects and recommendations adopted. The Commission should also publish an annual report recording implementation of the recommendations made as well as specific measures taken by the persons or undertakings concerned in response to the views of the Commission.

(9) Should the investments not be necessary for or go beyond the objectives of the Euratom Treaty or should their public financing distort or threaten to distort competition in the internal market, this Regulation is without prejudice to the application of the EC Treaty.

(10) Commission Regulation (EC) No 1209/2000 [2] should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1209/2000 is amended as follows:

1. The title is replaced by the following:

'Commission Regulation (Euratom) No 1209/2000 of 8 June 2000 determining the procedures for the examination of the communications prescribed under Article 41 of the Euratom Treaty'.

[1] OJ L 315, 9.12.1999, p. 1.

[2] OJ L 138, 9.6.2000, p. 12.