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- V. whereas enhanced cooperation will respect the rights, competences and obligations of the non-participating Member States, inasmuch as the possibility of obtaining unitary patent protection on the territories of the participating Member States does not affect the availability or the conditions of patent protection on the territories of non-participating Member States,
 - W. whereas Article 328(1) TFEU provides that enhanced cooperation is to be open at any time to all Member States that wish to participate; whereas the Commission and the Member States participating in the enhanced cooperation should promote from the beginning, and keep promoting and encouraging, the participation of as many Member States as possible,
 - X. whereas the consent of Parliament concerns the enhanced cooperation and does not prejudice which Member States will participate in it,
 - Y. whereas Article 333(2) TFEU allows the Council (or, more precisely, those members of the Council representing the Member States participating in enhanced cooperation) to adopt a decision stipulating that it will act under the ordinary legislative procedure, rather than the special legislative procedure provided for in the second paragraph of Article 118 TFEU, under which Parliament is merely consulted,
1. Consents to the draft Council decision, without prejudice to which are the participating Member States;
 2. Calls on the Council to adopt a decision pursuant to Article 333(2) of the Treaty on the Functioning of the European Union stipulating that, when it comes to the proposal for a Council Regulation implementing enhanced cooperation in the area of the creation of unitary patent protection with respect to language arrangements for the European intellectual property rights pursuant to the second paragraph of Article 118 of the Treaty on the Functioning of the European Union, it will act under the ordinary legislative procedure;
 3. Instructs its President to forward its position to the Council and the Commission.

Radioactive contamination of foodstuffs ***I

P7_TA(2011)0055

European Parliament legislative resolution of 15 February 2011 on the proposal for a Council regulation (Euratom) laying down maximum permitted levels of radioactive contamination of foodstuffs and of feedingstuffs following a nuclear accident or any other case of radiological emergency (recast) (COM(2010)0184 – C7-0137/2010 – 2010/0098(COD))

(2012/C 188 E/27)

(Ordinary legislative procedure: first reading -recast)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2010)0184),
- having regard to Council's consultation of Parliament (C7-0137/2010),
- having regard to Article 294(3) and Article 168 (4) (b) of the Treaty on the Functioning of the European Union,

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- having regard to the opinion of the European Economic and Social Committee of 15 September 2010 ⁽¹⁾,
 - having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts ⁽²⁾,
 - having regard to the letter of 29 June 2010 from the Committee on Legal Affairs to the Committee on Industry, Research and Energy in accordance with Rule 87(3) of its Rules of Procedure,
 - having regard to the opinion of the Committee on Legal Affairs on the proposed legal basis,
 - having regard to Rules 87, 55 and 37 of its Rules of Procedure,
 - having regard to the report of the Committee on Industry, Research and Energy (A7-0001/2011),
- A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the proposal in question does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance,
1. Adopts its position at first reading hereinafter set out, taking into account the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

⁽¹⁾ OJ C 48, 15.2.2011, p. 160.

⁽²⁾ OJ C 77, 28.3.2002, p. 1.

P7_TC1-COD(2010)0098

Position of the European Parliament adopted at first reading on 15 February 2011 with a view to the adoption of Regulation (EU) No .../2011 of the European Parliament and of the Council laying down maximum permitted levels of radioactive contamination of foodstuffs and of feedingstuffs following a nuclear accident or any other case of radiological emergency (recast)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty *on the Functioning of the European Union*, and in particular Article 168(4)(b) thereof,

[Amendment 32]

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

⁽¹⁾ OJ C 48, 15.2.2011, p. 160.

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Having regard to the opinion of the Committee of the Regions ⁽¹⁾,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) Council Regulation (Euratom) No 3954/87 of 22 December 1987 laying down maximum permitted levels of radioactive contamination of foodstuffs and of feedingstuffs following a nuclear accident or any other case of radiological emergency ⁽³⁾ has been substantially amended ⁽⁴⁾. Since further amendments are to be made, the said Regulation should be recast in the interests of clarity, together with Commission Regulation (Euratom) No 944/89 of 12 April 1989 laying down maximum permitted levels of radioactive contamination in minor foodstuffs following a nuclear accident or any other case of radiological emergency ⁽⁵⁾ and Commission Regulation (Euratom) No 770/90 of 29 March 1990 laying down maximum permitted levels of radioactive contamination of feedingstuffs following a nuclear accident or any other case of radiological emergency ⁽⁶⁾.

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[Amendment 2]

- (2) ***In accordance with Article 168 of the Treaty on the Functioning of the European Union (TFEU), a high level of human health protection should be ensured in the definition and implementation of all Union policies and activities.***

[Amendment 3]

- (3) On 2 February 1959, the Council adopted Directives ⁽⁷⁾ laying down basic safety standards, the text of which was replaced by that of 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 ionizing radiation ⁽⁸⁾. Article 50(2) of that Directive requires Member States to stipulate intervention levels in the event of accidents.
- (4) Following the accident at the Chernobyl nuclear power station on 26 April 1986, considerable quantities of radioactive materials were released into the atmosphere, contaminating foodstuffs and feedingstuffs in several European countries to levels significant from a health perspective. ***The soil was also contaminated by radioactive fallout, which increased the radioactivity of forest and agricultural foodstuffs obtained from the affected areas.***

[Amendment 4]

- (5) Measures were adopted ⁽⁹⁾ to ensure that certain agricultural products were only introduced into the Union according to the common arrangements which safeguard the health of the population while maintaining the unified nature of the market and avoiding deflections of trade.
- (6) ***A high level of human health protection is one of the objectives the Union is to achieve when defining and implementing its policies. Article 168(4)(b) TFEU provides for the adoption of common measures in the veterinary field, the direct objective of which is the protection of human health. Member States are responsible for monitoring compliance with the maximum permitted levels of radioactive contamination laid down in this Regulation, namely through the surveillance of the safety standards of foodstuffs and feedingstuffs.***

[Amendment 5]

⁽¹⁾ OJ C [...], [...], p. [...].

⁽²⁾ Position of the European Parliament of 15 February 2011.

⁽³⁾ OJ L 371, 30.12.1987, p. 11.

⁽⁴⁾ See Annex IV.

⁽⁵⁾ OJ L 101, 13.4.1989, p. 17.

⁽⁶⁾ OJ L 83, 30.3.1990, p. 78.

⁽⁷⁾ OJ 11, 20.2.1959, p. 221/59.

⁽⁸⁾ OJ L 159, 29.6.1996, p. 1.

⁽⁹⁾ Council Regulations (EEC) No 1707/86 (OJ L 146, 31.5.1986, p. 88), (EEC) No 3020/86 (OJ L 280, 1.10.1986, p. 79), (EEC) No 624/87 (OJ L 58, 28.2.1987, p. 101) and (EEC) No 3955/87 (OJ L 371, 30.12.1987, p. 14).

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- (7) The need arises to set up a system allowing the **Union**, following a nuclear accident or any other case of radiological emergency which is likely to lead or has led to a significant radioactive contamination of foodstuffs and feedingstuffs, to set maximum permitted levels of radioactive contamination in order to **ensure a high level of public health protection**.

[Amendment 6]

- (8) The Commission is to be informed of a nuclear accident or of unusually high levels of radioactivity according to Council Decision 87/600/Euratom of 14 December 1987 on Community arrangements for the early exchange of information in the event of radiological emergency ⁽¹⁾, or under the IAEA Convention of 26 September 1986 on early notification of a nuclear accident.
- (9) The Commission should **immediately apply the** pre-established maximum permitted levels **of radioactive contamination to a particular situation following a nuclear accident or radiological emergency**.

[Amendment 7]

- (10) **The Commission should be empowered to adopt delegated acts in accordance with Article 290 TFEU in respect of the adaptation to technical progress of the maximum permitted levels of radioactive contamination of foodstuffs and feedingstuffs, and of the list of minor foodstuffs. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.**

[Amendment 8]

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[Amendment 9]

- (11) **The** maximum permitted levels **of radioactive contamination should be regularly revised to** take due account of the latest scientific **advances and** advice as presently available on an international scale, **to reflect** the need for reassuring the public **and to provide it with a high level of protection and avoid** divergences in international regulatory practice.

[Amendment 10]

- (12) **Levels of radioactivity caused by contamination following a nuclear accident or any other case of radiological emergency should be taken into account in conjunction with the natural levels of radioactivity already present which might themselves exceed the safety limits established.**

[Amendment 11]

- (13) **Annexes I, II and III should take into account the effect of the partial decay of radioactive isotopes during the shelf life of preserved foodstuffs. Depending on the type of contamination, for example contamination with iodine isotopes, the radioactivity of preserved foodstuffs should be constantly monitored.**

[Amendment 12]

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[Amendments 13, 14 and 15]

⁽¹⁾ OJ L 371, 30.12.1987, p. 76.

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- (14) The foodstuffs to be considered as minor foodstuffs are those of minor dietary importance which make only a marginal contribution to food consumption by the population. ■

[Amendment 16]

- (15) *The general principles of food law as laid down in Articles 5 to 21 of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety ⁽¹⁾ shall apply.* Compliance with the maximum permitted levels of radioactive contamination should be the subject of appropriate checks *and official controls by Member States, as provided for in Article 17 of that Regulation,*

[Amendment 17]

HAVE ADOPTED THIS REGULATION:

Article 1

1. This Regulation lays down the procedure for determining the maximum permitted levels of radioactive contamination of foodstuffs and of feedingstuffs which may be placed on the market following a nuclear accident or any other case of radiological emergency which is likely to lead to or has led to significant radioactive contamination of foodstuffs and feedingstuffs.

2. For the purposes of this Regulation, the following definitions shall apply:

- (a) 'foodstuffs' means products which are intended for human consumption either immediately or after processing;
- (b) 'feedingstuffs' means products which are intended only for animal nutrition.

Article 2

1. In the event of the Commission receiving — in particular according to either the European Atomic Energy Community arrangements for the early exchange of information in case of a radiological emergency or under the IAEA Convention of 26 September 1986 on early notification of a nuclear accident — official information on nuclear accidents or on any other case of radiological emergency, substantiating that the maximum permitted levels of radioactive contamination for foodstuffs laid down in Annex I or the maximum permitted levels for feedingstuffs laid down in Annex III are likely to be reached or have been reached, it shall immediately adopt **a decision declaring the occurrence of a nuclear accident or radiological emergency and applying** those maximum permitted levels.

[Amendment 18]

2. The period of validity of ■ the **decision referred to in** paragraph 1 ■ shall not exceed three months ■

[Amendment 19]

3. *For the purposes of this Regulation, the Commission shall be assisted by a committee of independent scientific experts on public health and food safety. The members of the committee shall be selected according to scientific criteria. The Commission shall make public the composition of the committee of experts and its members' declarations of interests.*

[Amendment 20]

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[Amendments 21 and 22]

⁽¹⁾ OJ L 31, 1.2.2002, p. 1.

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Article 3

In order to *take account of any new scientific data becoming available, or if necessary after a nuclear accident or any other case of radiological emergency, the Commission shall adapt Annexes I, II and III by means of delegated acts in accordance with Article 4 and subject to the conditions of Articles 5 and 6.*

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[Amendment 23]

Article 4

Exercise of the delegation

1. *The power to adopt the delegated acts referred to in Article 3 shall be conferred on the Commission for a period of five years from ...⁽¹⁾. The Commission shall draw up a report in respect of the delegated power not later than six months before the end of the five-year period. The delegation of power shall be automatically extended for periods of an identical duration, unless the European Parliament or the Council revokes it in accordance with Article 5.*

2. *As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.*

3. *The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in Articles 5 and 6.*

[Amendment 24]

Article 5

Revocation of the delegation

1. *The delegation of power referred to in Article 3 may be revoked at any time by the European Parliament or by the Council.*

2. *The institution which has commenced an internal procedure for deciding whether to revoke the delegation of power shall endeavour to inform the other institution and the Commission within a reasonable time before the final decision is taken, indicating the delegated power which could be subject to revocation and possible reasons for a revocation.*

3. *The decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the Official Journal of the European Union.*

[Amendment 25]

Article 6

Objections to delegated acts

1. *The European Parliament or the Council may object to a delegated act within a period of two months from the date of notification.*

At the initiative of the European Parliament or the Council that period shall be extended by two months.

⁽¹⁾ OJ: Please insert date of entry into force of this Regulation.

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2. *If, on expiry of the period referred to in paragraph 1, neither the European Parliament nor the Council has objected to the delegated act it shall be published in the Official Journal of the European Union and shall enter into force on the date stated therein.*

The delegated act may be published in the Official Journal of the European Union and enter into force before the expiry of that period, if the European Parliament and the Council have both informed the Commission of their intention not to raise objections.

3. *If either the European Parliament or the Council objects to the delegated act within the period referred to in paragraph 1, it shall not enter into force. The institution which objects shall state the reasons for objecting to the delegated act.*

[Amendment 26]

Article 7

1. Foodstuffs or feedingstuffs not in compliance with the maximum permitted levels of radioactive contamination laid down in Annexes I and III shall not be placed on the market.

This Regulation shall also apply to foodstuffs or feedingstuffs imported from third countries, those in customs transit and those intended for export.

[Amendment 27]

2. Each Member State shall provide the Commission with all information concerning the application of this Regulation, in particular concerning cases of non-compliance with the maximum permitted levels of radioactive contamination. The Commission shall communicate such information to the other Member States.

3. *Member States shall monitor compliance with the maximum permitted levels of radioactive contamination within their territories. For that purpose Member States shall maintain a system of official controls for foodstuffs and feedingstuffs, and undertake other activities as appropriate in the circumstances, including public communication on food and feed safety and risks, in accordance with Article 17 of Regulation (EC) No 178/2002.*

[Amendment 28]

4. *The Commission shall, by March 2012, submit a report to the European Parliament and the Council on the appropriateness of a mechanism for compensating farmers whose foodstuffs have been contaminated beyond the maximum permitted levels of radioactive contamination and therefore cannot be placed on the market. Such a mechanism should be based on the polluter-pays principle. The report shall, if appropriate, be accompanied by a legislative proposal setting up such a mechanism.*

[Amendment 33]

Article 8

A list of minor foodstuffs is set out in Annex II.

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[Amendment 29]

Article 9

1. *The Commission shall, by March 2012, submit a report to the European Parliament and the Council on the appropriateness of the maximum permitted levels of radioactive contamination laid down in Annexes I and III, and on the appropriateness of maintaining a list of minor foodstuffs as laid down in Annex II.*

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2. *That report shall in particular examine the compliance of the maximum permitted levels of radioactive contamination with the effective dose limit of 1 mSv/y for members of the public under the conditions laid down in Directive 96/29/Euratom and shall consider the possible inclusion of additional relevant radionuclides in Annex I and III. In assessing those maximum permitted levels, the report shall focus on the protection of the most vulnerable population groups, in particular children, and examine whether it would be appropriate to set maximum permitted levels for all categories of the population on that basis.*

[Amendment 30]

Article 10

Council Regulation (Euratom) No 3954/87 and Commission Regulations (Euratom) No 944/89 and No 770/90 are repealed.

References to the repealed Regulations shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex V.

Article 11

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at

For the European Parliament
The President

For the Council
The President

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ANNEX I

[Amendment 31]

MAXIMUM PERMITTED LEVELS OF RADIOACTIVE CONTAMINATION FOR FOODSTUFFS (Bq/kg)

	Foodstuffs ⁽¹⁾			
	Infant food ⁽²⁾	Dairy produce ⁽³⁾	Other foodstuffs except minor foodstuffs ⁽⁴⁾	Liquid foodstuffs ⁽⁵⁾
Isotopes of strontium, notably Sr-90	75	125	750	125
Isotopes of iodine, notably I-131	150	500	2 000	500
Alpha-emitting isotopes of plutonium and transplutonium elements, notably Pu-239, Am-241	1	20	80	20
All other nuclides of half-life greater than 10 days, notably Cs-134, Cs-137 ⁽⁶⁾	400	1 000	1 250	1 000

⁽¹⁾ The maximum permitted level applicable to concentrated or dried products is calculated on the basis of the reconstituted product as ready for consumption. Member States may make recommendations concerning the diluting conditions in order to ensure that the maximum permitted levels laid down in this Regulation are observed.

⁽²⁾ Infant food is defined as *infant formulae, including formula milk, follow-on formulae and equivalent* foodstuffs, intended for infants **under the age of twelve months**, which meet in themselves, the nutritional requirements of this category of person and are put up for retail sale in packages which are clearly identified and labelled 'food preparation for infants'.

⁽³⁾ Dairy produce is defined as those products falling within the following CN codes including, where appropriate, any adjustments which might be made to them later: 0401, 0402 (except 0402 29 11).

⁽⁴⁾ Minor foodstuffs and the corresponding maximum permitted levels to be applied to them are set out in Annex II.

⁽⁵⁾ Liquid foodstuffs as defined in the heading 2009 and in chapter 22 of the combined nomenclature. Values are calculated taking into account consumption of tap-water and the same values should be applied to drinking water supplies at the discretion of competent authorities in Member States.

⁽⁶⁾ Carbon 14, tritium and potassium 40 are not included in this group.

ANNEX II

List of minor foodstuffs

For the minor foodstuffs set out in this Annex, the maximum permitted levels of radioactive contamination to be applied are 10 times those applicable to 'other foodstuffs except minor foodstuffs' set out in Annex I.

CN code	Description
0703 20 00	Garlic (fresh or chilled)
0709 59 50	Truffles (fresh or chilled)
0709 90 40	Capers (fresh or chilled)
0711 90 70	Capers (provisionally preserved, but unsuitable in that state for immediate consumption)
ex 0712 39 00	Truffles (dried, whole, cut, sliced, broken or in powder, but not further prepared)
0714	Manioc, arrowroot, salep, Jerusalem artichokes, sweet potatoes and similar roots and tubers with high starch or inulin content, fresh or dried, whether or not sliced or in the form of pellets; sago pith
0814 00 00	Peel of citrus fruit or melons (including watermelons), fresh, frozen, dried or provisionally preserved in brine, in sulphur water or in other preservative solutions
0903 00 00	Maté

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CN code	Description
0904	Pepper of the genus <i>Piper</i> ; dried or crushed or ground fruits of the genus <i>Capsicum</i> or of the genus <i>Pimenta</i>
0905 00 00	Vanilla
0906	Cinnamon and cinnamon-tree flowers
0907 00 00	Cloves (whole fruit, cloves and stems)
0908	Nutmeg, mace and cardamons
0909	Seeds of anise, badian, fennel, coriander, cumin or caraway; juniper berries
0910	Ginger, saffron, turmeric (curcuma), thyme, bay leaves, curry and other spices
1106 20	Flour, meal and powder of sago or of roots or tubers of heading No 0714
1108 14 00	Manioc (cassava) starch
1210	Hop cones, fresh or dried, whether or not ground, powdered or in the form of pellets; lupulin
1211	Plants and parts of plants (including seeds and fruits), of a kind used primarily in perfumery, in pharmacy or for insecticidal, fungicidal or similar purposes, fresh or dried, whether or not cut, crushed or powdered
1301	Lac; natural gums, resins, gum-resins and oleoresins (for example, balsams)
1302	Vegetable saps and extracts; pectic substances, pectinates and pectates; agar-agar and other mucilages and thickeners, whether or not modified, derived from vegetable products
1504	Fats and oils and their fractions, of fish or marine mammals, whether or not refined, but not chemically modified
1604 30	Caviar and caviar substitutes
1801 00 00	Cocoa beans, whole or broken, raw or roasted
1802 00 00	Cocoa shells, husks, skins and other cocoa waste
1803	Cocoa paste, whether or not defatted
2003 20 00	Truffles (prepared or preserved otherwise than by vinegar or acetic acid)
2006 00	Vegetables, fruit, nuts, fruit-peel and other parts of plants, preserved by sugar (drained, glacé or crystallized)
2102	Yeasts (active or inactive); other single-cell micro-organisms, dead (but not including vaccines of heading No 3002); prepared baking powders
2936	Provitamins and vitamins, natural or reproduced by synthesis (including natural concentrates), derivatives thereof used primarily as vitamins, and intermixtures of the foregoing, whether or not in any solvent
3301	Essential oils (terpeneless or not), including concretes and absolutes; resinoids; extracted oleoresins; concentrates of essential oils in fats, in fixed oils, in waxes or the like, obtained by enfleurage or maceration; terpenic by-products of the deterpenation of essential oils; aqueous distillates and aqueous solutions of essential oils

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ANNEX III

Maximum permitted levels of radioactive contamination (caesium-134 and caesium-137) of feedingstuffs

Animal	Bq/kg ⁽¹⁾ , ⁽²⁾
Pigs	1 250
Poultry, lambs, calves	2 500
Other	5 000

⁽¹⁾ These maximum permitted levels are intended to contribute to the observance of the maximum permitted levels for foodstuffs; they do not alone guarantee such observance in all circumstances and do not lessen the requirement for monitoring contamination levels in animal products destined for human consumption.

⁽²⁾ These maximum permitted levels apply to feedingstuffs as ready for consumption.

ANNEX IV

Repealed Regulations

Council Regulation (Euratom) No 3954/87	(OJ L 371, 30.12.1987, p. 11)
Council Regulation (Euratom) No 2218/89	(OJ L 211, 22.7.1989, p. 1)
Commission Regulation (Euratom) No 944/89	(OJ L 101, 13.4.1989, p. 17)
Commission Regulation (Euratom) No 770/90	(OJ L 83, 30.3.1990, p. 78)

ANNEX V

Correlation Table

Regulation (Euratom) No 3954/87	Regulation (Euratom) No 944/89	Regulation (Euratom) No 770/90	This Regulation
Articles 1 and 2			Articles 1 and 2
Article 5			Article 3
			Article 4
			Article 5
			Article 6
Article 6(1) first and second sentence			Article 7(1) first and second subparagraphs
Article 6(2)			Article 7(2)
	Article 1		Article 8
	Article 2		Annex II
		Article 1	Article 2(1)
			Article 9
			Article 10

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Regulation (Euratom) No 3954/87	Regulation (Euratom) No 944/89	Regulation (Euratom) No 770/90	This Regulation
Article 8			Article 11
Annex	Annex	Annex	Annex I
			Annex II
			Annex III
			Annex IV
			Annex V