

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

CHAPTER 1

PRELIMINARY PROVISIONS

Article 1

Subject matter and scope

- 1 This Directive lays down a Community system of supervision and control of transboundary shipments of radioactive waste and spent fuel, so as to guarantee an adequate protection of the population.
- 2 This Directive shall apply to transboundary shipments of radioactive waste or spent fuel whenever:
 - a the country of origin or the country of destination or any country of transit is a Member State of the Community; and
 - b the quantities and concentration of the consignment exceed the levels laid down in Article 3(2) points (a) and (b) of Directive 96/29/Euratom.
- 3 This Directive shall not apply to shipments of disused sources to a supplier or manufacturer of radioactive sources or to a recognised installation.
- 4 This Directive shall not apply to shipments of radioactive materials recovered, through reprocessing, for further use.
- 5 This Directive shall not apply to transboundary shipments of waste that contains only naturally occurring radioactive material which does not arise from practices.
- 6 This Directive is without prejudice to rights and obligations under international law.

Article 2

Reshipments related to processing and reprocessing operations

This Directive shall not affect the right of a Member State or an undertaking in the Member State to which:

- (a) radioactive waste is to be shipped for processing; or
- (b) other material is to be shipped with the purpose to recover the radioactive waste,

to return the radioactive waste after treatment to its country of origin. Nor shall it affect the right of a Member State or an undertaking in that Member State to which spent fuel is to be shipped for reprocessing to return to its country of origin radioactive waste recovered from the reprocessing operation.

Article 3

Transboundary shipments of spent fuel for reprocessing

Without prejudice to the competence of each Member State to define its own spent fuel cycle policy, this Directive shall not affect the right of a Member State to export spent fuel for reprocessing, taking into account the principles of the nuclear common market, in particular the free movement of goods. Those shipments and exports shall be supervised and controlled in accordance with the procedures laid down in this Directive.

Article 4

Reshipment related to non-authorised shipments and undeclared radioactive waste

This Directive shall not affect the right of a Member State to safely return to its country of origin:

- (a) shipments of radioactive waste and spent fuel which fall under the scope of this Directive but which were not duly authorised in accordance with this directive; and
- (b) radioactively contaminated waste or material containing a radioactive source where this material has not been declared as radioactive waste by the country of origin.

Article 5

Definitions

For the purposes of this Directive the following definitions shall apply:

1. 'radioactive waste' means 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 under the legislative and regulatory framework of the countries of origin and destination;
2. 'spent fuel' means nuclear fuel that has been irradiated in and permanently removed from a reactor core; spent fuel may either be considered as usable resource that can be reprocessed or be destined for final disposal with no further use foreseen and treated as radioactive waste;
3. 'reprocessing' means a process or operation, the purpose of which is to extract radioactive isotopes from spent fuel for further use;
4. 'shipment' means the whole of operations involved in moving radioactive waste or spent fuel from the country or the Member State of origin to the country or the Member State of destination;
5. 'intra-community shipment' means a shipment carried out where the country of origin and the country of destination are Member States;
6. 'extra-community shipment' means a shipment carried out where the country of origin and/or the country of destination are third countries;

7. 'disposal' means the emplacement of radioactive waste or spent fuel in an authorised facility without the intention of retrieval;
8. 'storage' means the holding of radioactive waste or spent fuel in a facility that provides for its containment, with the intention of retrieval;
9. 'holder' means any natural or legal person who, before carrying out a shipment of radioactive waste or spent fuel is responsible under the applicable national law for such materials and plans to carry out a shipment to a consignee;
10. 'consignee' means any natural or legal person to whom radioactive waste or spent fuel is shipped;
11. 'country or Member State of origin' and 'country or Member State of destination' respectively means any country or Member State from which a shipment is planned to be initiated or is initiated, and any country or Member State to which a shipment is planned or takes place;
12. 'country or Member State of transit' means any country or Member State other than the country or the Member State of origin or the country or the Member State of destination, through the territory of which a shipment is planned or takes place;
13. 'competent authorities' means any authority which, under the law or regulations of the countries of origin, transit or destination, are empowered to implement the system of supervision and control of shipments of radioactive waste or spent fuel;
14. 'sealed source' has the meaning given to it by Directive 96/29/Euratom and includes the capsule, where applicable, enclosing the radioactive material as an integral part of the source;
15. 'disused source' means a sealed source which is no longer used or intended to be used for the practice for which authorisation was granted;
16. 'recognised installation' means a facility located in the territory of a country authorised by the competent authorities of that country in accordance with national law for the long-term storage or disposal of sealed sources or an installation duly authorised under national law for the interim storage of sealed sources;
17. 'duly completed application' means the standard document that complies with all the requirements, as established in accordance with Article 17.

CHAPTER 2

INTRA-COMMUNITY SHIPMENTS

Article 6

Application for shipment authorisation

1 A holder who plans to carry out an intra-Community shipment of radioactive waste or spent fuel or to arrange for such a shipment to be carried out shall submit a duly completed application for authorisation to the competent authorities of the Member State of origin.

2 The application may be sent in respect of more than one shipment, provided that:

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

Article 7

Transmission of the application to the competent authorities

- 1 The competent authorities of the Member State of origin shall send the duly completed application referred to in Article 6 for consent to the competent authorities of the Member State of destination and of the Member States of transit, if any.
- 2 The competent authorities of the Member States involved shall take the necessary measures to ensure that all information regarding shipments covered by this Directive is handled with due care and protected against any misuse.

Article 8

Acknowledgement of receipt and request for information

- 1 Within 20 days following the receipt of the application, the competent authorities of the Member State of destination and transit shall verify that the application is duly completed, within the meaning of Article 5(17).
- 2 In case the application is duly completed, the competent authorities of the Member State of destination 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, not later than 10 days after expiry of the 20 days period set out in paragraph 1.
- 3 If any of the competent authorities of the Member States concerned consider that the application is not duly completed, they shall request the missing information from the competent authorities of the Member State of origin and inform the other competent authorities of such request. This request shall be made not later than the expiry of the period set out in paragraph 1.

The competent authorities of the Member State of origin shall transmit the requested information to the competent authorities concerned.

Not later than 10 days after the date of receipt of the missing information and not earlier than after expiry of the 20 days period set out in paragraph 1, the competent authorities of the Member State of destination 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.

- 4 The time periods set out in paragraphs 1, 2 and 3 for issuing the acknowledgement of receipt may be shortened if the competent authorities of destination and transit are satisfied that the application is duly completed.

Article 9

Consent and refusal

1 Not later than two months from the date of acknowledgement of receipt the competent authorities of all Member States concerned shall notify the competent authorities of the Member State of origin of their consent, or of the conditions which they consider necessary for giving their consent, or of their refusal to grant consent.

However, the competent authorities of the Member State of destination or of any Member State of transit may request a further period of not more than one month in addition to the period referred to in the first subparagraph to make their position known.

2 If upon expiry of the periods set out in paragraph 1, no reply has been received from the competent authorities of the Member State of destination and/or the intended Member State of transit, those countries shall be deemed to have given their consent for the shipment requested.

3 Reasons shall be given by Member States for any refusal to grant consent, or for conditions attached to their consent, which shall be based:

- a for Member States of transit, on the relevant national, Community or international legislation applicable to the transport of radioactive material;
- b for the Member State of destination, on relevant legislation applicable to the management of radioactive waste or spent fuel or on relevant national, Community or international legislation applicable to the transport of radioactive material.

Any conditions imposed by the competent authorities of the Member States, whether they are the country of transit or of destination, may not be more stringent than those laid down for similar shipments within those Member States.

4 The Member State or States which gave consent to transit for a given shipment 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 legislation is respected;
- b under the circumstances described in Article 12, if the reshipment is undertaken on the same conditions and with the same specifications.

5 Unjustified delays and/or lack of cooperation by the competent authorities of another Member State shall be reported to the Commission.

Article 10

Authorisation of shipments

1 If all the consents necessary for shipment have been given, the competent authorities of the Member State of origin shall be entitled to authorise the holder to carry out the shipment and shall inform the competent authorities of the Member State of destination and of any Member State or third country of transit accordingly.

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2 The authorisation referred to in paragraph 1 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.

3 A single authorisation may cover more than one shipment, where the conditions set out in Article 6(2) are met.

4 Any authorisation shall be valid for a period of not more than three years.

When establishing this period of validity, Member States shall take into account any conditions set out in the consent given by the Member States of destination or of transit.

Article 11

Acknowledgement of receipt of the shipment

1 Within 15 days of receipt, the consignee shall send the competent authorities of the Member State of destination an acknowledgement of receipt of each shipment.

2 The competent authorities of the Member State of destination shall send copies of the acknowledgement of receipt to the Member State of origin and any Member State or third country of transit.

3 The competent authorities of the Member State of origin shall send a copy of the acknowledgement of receipt to the original holder.

Article 12

Shipment failure

1 The Member State of destination, origin or transit may decide that the shipment may not be completed if the conditions for shipment are no longer complied with in accordance with this Directive, or are not in accordance with the authorisations or consents given pursuant to this Directive.

Such Member State shall forthwith inform the competent authorities of the other Member States involved in the shipment of this decision.

2 Where a shipment cannot be completed or if the conditions for shipment are not complied with in accordance with this Directive, the competent authorities of the Member State of origin 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. These competent authorities shall ensure that the person responsible for the shipment takes corrective safety measures where necessary.

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

CHAPTER 3

EXTRA-COMMUNITY SHIPMENTS

Article 13

Imports into the Community

1 Where radioactive waste or spent fuel falling within the scope of this Directive is to enter the Community from a third country and the country of destination is a Member State, the consignee shall submit an application for authorisation to the competent authorities of that Member State. The application may be sent in respect of more than one shipment, under the conditions set out in Article 6(2).

The application shall include evidence that the consignee has made an arrangement with the holder established in the third country, and which has been accepted by the competent authorities of that third country, obliging that holder to take back the radioactive waste or the spent fuel where a shipment cannot be completed in accordance with this Directive, as provided for in paragraph 5 of this Article.

2 The competent authorities of the Member State of destination shall send the application referred to in paragraph 1 for consent to the competent authorities of the Member States of transit, if any.

Articles 8 and 9 shall apply.

3 If all the consents necessary for the shipment have been granted, the competent authorities of the Member State of destination shall be entitled to authorise the consignee to carry out the shipment and shall inform the competent authorities of any Member State or third country of origin or of transit accordingly.

Article 10(2), (3) and (4) shall apply.

4 Within 15 days of receipt of the shipment, the consignee shall send the competent authorities of the Member State of destination an acknowledgement of receipt of each shipment. The competent authorities of the Member State of destination shall send copies of the acknowledgement to the country of origin and to any Member State or third country of transit.

5 The Member State of destination or any Member State of transit may decide that the shipment may not be completed if the conditions for shipment are no longer complied with in accordance with this Directive, or are not in accordance with the authorisations or consents issued pursuant to this Directive. Such Member State shall forthwith inform the competent authorities of the country of origin of this decision.

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

Article 14

Transit through the Community

1 Where radioactive waste or spent fuel is to enter the Community from a third country and the country of destination is not a Member State, the natural or legal person who has the responsibility for managing the shipment within the Member State through whose customs post

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radioactive waste or spent fuel is first to enter the Community (first Member State of transit) shall submit an application for authorisation to the competent authorities of that Member State. The application may be sent in respect of more than one shipment, under the conditions set out in Article 6(2).

The application shall include evidence that the consignee established in the third country has made an arrangement with the holder established in the third country, and accepted by the competent authorities of that third country, obliging that holder to take back radioactive waste or the spent fuel where a shipment cannot be completed in accordance with this Directive, as provided for in paragraph 5 of this Article.

2 The competent authorities of the first Member State of transit shall send the application referred to in paragraph 1 for consent to the competent authorities of other Member States of transit, if any.

Articles 8 and 9 shall apply.

3 If all the consents necessary for shipment have been granted, the competent authorities of the first Member State of transit shall be entitled to authorise the person responsible referred to in paragraph 1 to carry out the shipment and shall inform the competent authorities of any other Member State or third country of transit or of origin accordingly.

Article 10(2), (3) and (4) shall apply.

4 The person responsible referred to in paragraph 1 shall notify the competent authorities of the first Member State of transit that the radioactive waste or spent fuel has reached its destination in the third country within 15 days of the date of arrival and shall indicate the last customs post in the Community 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 post of entry in the third country.

5 A Member State of transit may decide that the shipment may not be completed if the conditions for shipment are no longer complied with in accordance with this Directive, or are not in accordance with the authorisations or consents issued pursuant to this Directive. Such Member State shall forthwith inform the competent authorities of the country of origin of this decision. The person responsible referred to in paragraph 1 shall be liable for costs arising in cases where the shipment cannot or may not be completed.

Article 15

Exports out of the Community

1 Where radioactive waste or spent fuel is to be exported from the Community to a third country, the holder shall submit an application for authorisation to the competent authorities of the Member State of origin. The application may be sent in respect of more than one shipment, under the conditions set out in Article 6(2).

2 The competent authorities of the Member State of origin shall:

- a notify the competent authorities of the country of destination of the planned shipment and ask their consent; and
- b send the application referred to in paragraph 1 for consent to the competent authorities of the Member States of transit, if any.

Article 8 shall apply.

3 If all the consents necessary for shipment have been given, the competent authorities of the Member State of origin shall be entitled to authorise the holder to carry out the shipment and shall inform the competent authorities of the third country of destination and of any Member State or third country of transit accordingly.

Article 10(2), (3) and (4) shall apply.

4 The holder shall notify the competent authorities of the Member State of origin that the radioactive waste or spent fuel has reached its destination in the third country within 15 days of the date of arrival and shall indicate the last customs post in the Community 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 post of entry in the third country.

5 The Member State of origin or any Member State of transit may decide that the shipment may not be completed if the conditions for shipment are no longer complied with in accordance with this Directive, or are not in accordance with the authorisations or consents issued pursuant to this Directive. Such Member State of transit shall forthwith inform the competent authorities of the Member State of origin of this decision.

Article 12(2) and (3), shall apply.

Article 16

Prohibited exports

- 1 The competent authorities of Member States shall not authorise shipments:
- a to a destination south of latitude 60° south; or
 - b to a State which is party to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, (Cotonou ACP-EC Agreement) which is not a Member State, without prejudice to Article 2, or
 - c to a third country which does not, in the opinion of the competent authorities of the Member State of origin, in accordance with the criteria referred to in paragraph 2 of this Article, have the administrative and technical capacity and regulatory structure to manage the radioactive waste or spent fuel safely, as stated in the Joint Convention. In coming to an opinion on this issue, Member States shall take duly into account any relevant information from other Member States. In this respect, Member States shall inform the Commission and the Advisory committee, as set up under Article 21 on a yearly basis.
- 2 The Commission shall, in accordance with the procedure laid down in Article 21, establish criteria, taking due account of, *inter alia*, relevant safety standards of the International Atomic Energy Agency (IAEA), facilitating Member States to evaluate whether requirements for exports are met.

CHAPTER 4

GENERAL PROVISIONS

Article 17

Use of a standard document

1 A standard document shall be used for all shipments within the scope of this Directive.

2 The Commission shall, in accordance with the procedure laid down in Article 21, establish the standard document which shall include as an Annex a list of the minimum requirements of a duly completed application.

The standard document and its Annexes shall be published in the *Official Journal of the European Union* and be made available in electronic form not later than 25 December 2008. If necessary, it shall be updated following the same procedure.

3 The application for authorisation shall be completed and any further documentation and information referred to in Articles 10, 13, 14 and 15 shall be supplied in a language that is acceptable to the competent authorities of the Member State to whom the application for authorisation is submitted in accordance with this Directive.

An authenticated translation shall be supplied by the holder at the request of the competent authorities of the country of destination or transit in a language acceptable to them.

4 Any additional requirements for authorising a shipment shall be attached to the standard document.

5 Without prejudice to any other accompanying documents required under other relevant legal provisions, the completed standard document certifying that the authorisation procedure has been duly complied with shall accompany each shipment falling under the scope of this Directive, including cases where the authorisation relates to more than one shipment in a single document.

6 These documents shall be available to the competent authorities of the country of origin and destination and any country of transit.

Article 18

Competent authorities

1 Member States shall forward to the Commission not later than 25 December 2008 the name(s) and the address(es) of the competent authority or authorities and all necessary information for rapidly communicating with such authorities.

2 Member States shall regularly forward to the Commission any changes to such data.

Article 19

Transmission

1 The Commission shall, in accordance with the procedure laid down in Article 21, establish recommendations for a secure and effective system of transmission of the documents and information relating to the provisions of this Directive.

2 The Commission shall establish and maintain an electronic communication platform to publish;

- a the name(s) and address(es) of the competent authority or authorities of each Member State;
- b the languages acceptable to the competent authorities of each Member State; and
- c all general conditions and additional requirements, if any, necessary for the competent authorities of each Member State to authorise a shipment.

Article 20

Regular reports

1 By 25 December 2011 and every three years afterwards, Member States shall forward to the Commission reports on the implementation of this Directive.

2 On the basis of these reports, the Commission shall, in accordance with the procedure laid down in Article 21, establish a summary report for the European Parliament, the Council and the European Economic and Social Committee, paying particular attention to the implementation of Article 4.

Article 21

Advisory committee

1 In performing the tasks laid down in Articles 16(2), 17(2), 19(1) and Article 20(2) the Commission shall be assisted by a Committee of an advisory nature composed of representatives of the Member States and chaired by a representative of the Commission (hereinafter referred to as the Committee).

2 The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the Chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

3 The opinion shall be recorded in the minutes. Each Member State shall have the right to ask to have its position recorded in the minutes.

4 The Commission shall take account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which its opinion has been taken into account.

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Article 22

Transposition

1 Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 25 December 2008. They shall forthwith inform the Commission thereof.

When they are adopted by the Member States, these measures shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2 Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 23

Repeal

1 Directive 92/3/Euratom shall be repealed with effect from 25 December 2008, without prejudice to the obligations of the Member States relating to the time limit for transposition into national law and application of that Directive.

2 References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in the Annex.

Article 24

Transitional provisions

1 Where the application for authorisation has been duly approved by or submitted to the competent authorities of the country of origin before 25 December 2008, Directive 92/3/Euratom shall apply to all shipment operations covered by the same authorisation.

2 When deciding on applications for authorisation submitted before 25 December 2008, for more than one shipment of radioactive waste or spent fuel to a third country of destination, the Member State of origin shall take account of all relevant circumstances, and in particular:

- a the planned time schedule for carrying out all shipments covered by the same application;
- b the justification for including all shipments in the same application;
- c the appropriateness of authorising a number of shipments lower than that covered by the application.

3 Until the standard document provided for in Article 17 of this Directive becomes available, the standard document established by Commission Decision 93/552/Euratom⁽¹⁾ shall be used *mutatis mutandis* for the purposes of this Directive.

Article 25

Entry into force

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

Article 26

This Directive is addressed to the Member States.

Done at Brussels, 20 November 2006.

For the Council

The President

J. KORKEAOJA

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- (1) Commission Decision 93/552/Euratom of 1 October 1993 establishing the standard document for the supervision and control of shipments of radioactive waste referred to in Council Directive 92/3/Euratom ([OJ L 268, 29.10.1993, p. 83](#)).