

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

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on the supervision and control of shipments of radioactive waste and spent fuel

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Articles 31(2) and 32 thereof,

Having regard to the proposal from the Commission drawn up after obtaining the opinion of a group of persons appointed by the Scientific and Technical Committee from among scientific experts in the Member States, in accordance with Article 31 of the Treaty, and after having consulted the European Economic and Social Committee⁽¹⁾,

Having regard to the opinion of the European Parliament⁽²⁾,

Whereas:

- (1) Operations involved in shipments of radioactive waste or spent fuel are subject to a number of requirements under Community and international legal instruments regarding in particular the safe transport of radioactive material and the conditions under which radioactive waste or spent fuel is disposed of or stored in the country of destination.
- (2) Further to these requirements, the health protection of workers and the general public requires that shipments of radioactive waste or spent fuel between Member States and into and out of the Community be subject to a compulsory and common system of prior authorisation.
- (3) As stated in Council Resolution of 22 May 2002 on the establishment of national systems for surveillance and control of the presence of radioactive materials in the recycling of metallic materials in the Member States⁽³⁾, it is important to minimise the radiological risk deriving from the presence of radioactive materials among metallic materials destined for recycling.
- (4) Council Directive 92/3/Euratom of 3 February 1992 on the supervision and control of shipments of radioactive waste between Member States and into and out of the Community⁽⁴⁾ established a Community system of strict control and prior authorisation for shipments of radioactive waste that has proved satisfactory. It needs, nevertheless, to be amended in the light of experience in order to clarify and add concepts and definitions, to address situations that had been omitted in the past, to simplify the existing procedure for the shipment of radioactive waste between Member States and to guarantee consistency with other Community and international provisions, and in particular with the Joint Convention on the Safety of Spent Fuel Management and on the

Safety of Radioactive Waste Management (hereinafter referred to as Joint Convention), to which the Community acceded on 2 January 2006.

- (5) In the framework of the Fifth Phase of the SLIM (Simpler Legislation for the Internal Market) initiative, a working group of representatives of Member States and of users was set up in order to address a number of concerns expressed by users of Directive 92/3/Euratom, while bringing it into line with current international rules and instruments.
- (6) The procedure laid down in Directive 92/3/Euratom has been applied in practice only to shipments of spent fuel for which no further use is intended, considered thus as 'radioactive waste' for the purposes of that Directive. From a radiological point of view, excluding the application of such supervision and control procedure to spent fuel where it is intended for reprocessing is not justified. It is therefore appropriate that this Directive cover all shipments of spent fuel, whether it is intended for disposal or for reprocessing.
- (7) Each Member State should remain fully responsible for the choice of its own policy on the management of the nuclear waste and spent fuel within its jurisdiction, some choosing reprocessing of spent fuel, others aiming at final disposal of spent fuel with no other use foreseen. This Directive should therefore be without prejudice to the right of Member States to export their spent fuel for reprocessing and nothing in this Directive should imply that a Member State of destination has to accept shipments of radioactive waste and spent fuel for final treatment or disposal except in the case of reshipment. Any refusal of such shipments should be justified on the basis of the criteria set out in this Directive.
- (8) Simplification of the existing procedure should not hamper the existing rights of the Member States to object to, or impose conditions in relation to, a shipment of radioactive waste which require their consent. Objections should not be arbitrary and should be founded on relevant national, Community or international law. This Directive should be without prejudice to rights and obligations under international law, and in particular to the exercise, by ships and aircraft, of maritime, river and air navigation rights and freedoms, as provided for under international law.
- (9) The possibility for a Member State of destination or of transit to refuse the automatic procedure for granting consent to shipments imposes an unjustified administrative burden and generates uncertainty. The mandatory acknowledgement of receipt of the application by the authorities of the countries of destination and transit, together with the extension of the period for granting consent, should allow tacit approval to be assumed with a high degree of certainty.
- (10) The 'authorisations' for shipments in the sense of this Directive should not replace any specific national requirements for the shipments such as transport licences.
- (11) To protect human health and the environment against the dangers arising from radioactive waste, account should be taken of risks occurring outside the Community. In the case of radioactive waste and spent fuel leaving the Community, the third country of destination should not only be informed of the shipment, but should also give its consent to it.

- (12) The competent authorities of the Member State of destination should cooperate and liaise with the other competent authorities involved in order to avoid undue delays and to ensure a smooth operation of the consent procedure laid down by this Directive.
- (13) The requirement that the person responsible for the shipment take corrective safety measures where necessary in case of shipment failure should not prevent the application of mechanisms established by the Member States at national level.
- (14) The requirement that the holder be liable for costs arising in case of shipment failure should not prevent that mechanisms established by the Member States at national level or any contractual arrangement between the holder and any other person involved in the shipment, apply.
- (15) While radioactive waste should, as far as is compatible with the safe management of such material, be disposed of in the State in which it was generated it is recognized that Member States should promote agreements between themselves in order to facilitate the safe and efficient management of radioactive waste or spent fuel from Member States that produced it in small quantities and where the establishment of appropriate facilities would not be justified from a radiological point of view.
- (16) When an arrangement between a consignee in a third country and a holder in a third country has been concluded pursuant to Article 27 of the Joint Convention, the same arrangement could be used for the purpose of this Directive.
- (17) For the purposes of this Directive and in the light of past experience it is appropriate to adapt the existing standard document. For the sake of clarity the obligation to establish the new standard document by the date of transposition of this Directive should be laid down. However, should this deadline not be met, transitional provisions should provide for the use of the existing standard document. Moreover, clear rules on the use of languages should allow for legal certainty and prevent unjustified delays.
- (18) Periodical reporting from Member States to the Commission and from the Commission to the European Parliament, to the Council and to the European Economic and Social Committee should provide a useful overview of authorisations given Community-wide and should identify possible difficulties encountered in practice by the Member States and solutions applied.
- (19) 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⁽⁶⁾, applies, *inter alia*, to the transport, import to and export from the Community of radioactive substances and provides for a reporting and authorisation system of practices involving ionising radiation. Those provisions are therefore relevant to the field covered by this Directive.
- (20) In the light of the foregoing, it is necessary, for reasons of clarity, to repeal and replace Directive 92/3/Euratom. This Directive should not prejudice the obligations of the Member States concerning the deadlines for transposition into national law and application of the repealed Directive.

- (21) In accordance with paragraph 34 of the interinstitutional agreement on better law making⁽⁶⁾ Member States are encouraged to draw up, for themselves and in the interest of the Community, their own tables which will, as far as possible, illustrate the correlation between this Directive and the transposition measures and to make them public,

HAS ADOPTED THIS DIRECTIVE:

- (1) [OJ C 286, 17.11.2005, p. 34.](#)
- (2) Opinion delivered on 5 July 2006 (not yet published in the Official Journal).
- (3) [OJ C 119, 22.5.2002, p. 7.](#)
- (4) [OJ L 35, 12.2.1992, p. 24.](#)
- (5) [OJ L 159, 29.6.1996, p. 1.](#)
- (6) [OJ C 321, 31.12.2003, p. 1.](#)