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Shipments of radioactive waste and nuclear spent fuel *

European Parliament legislative resolution on the proposal for a Council directive on the supervision and control of shipments of radioactive waste and nuclear spent fuel (COM(2005)0673 – C6-0031/2006 – 2005/0272(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2005)0673)¹,
 - having regard to Articles 31(2) and 32 of the Euratom Treaty, pursuant to which the Council consulted Parliament (C6-0031/2006),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Industry, Research and Energy (A6-0174/2006),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 119, second paragraph, of the Euratom Treaty;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
 5. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1
Recital 1 a (new)

(1a) By Council Decision 2005/84/Euratom of 24 January 2005¹, the European Atomic Energy Community acceded to the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management.

¹ Not yet published in OJ.

Amendment 2

Recital 6

(6) ***Lack of a Community common fuel cycle policy***, each Member State remains responsible for the choice of its own policy on the management of the nuclear waste and spent fuel that are under its jurisdiction; the provisions of this Directive should therefore be without prejudice to the right of Member States to export their spent fuel for reprocessing and to ***their*** right to refuse the entry into their territory of radioactive waste for final treatment ***or disposal***, except in the case of reshipment.

(6) Each Member State remains responsible for the choice of its own policy on the management of the nuclear waste and spent fuel that are under its jurisdiction, ***some considering spent fuel as a usable resource that can be reprocessed, others electing to dispose of it***; the provisions of this Directive should therefore be without prejudice to the right of Member States ***of origin*** to export their spent fuel for reprocessing and to ***the*** right ***of Member States of destination*** to refuse the entry into their territory of (i) radioactive waste for final treatment, except in the case of reshipment, ***and (ii) spent fuel for final disposal***.

Amendment 3

Recital 8

(8) Simplification of the existing procedure should not hamper the existing rights of the Member States to object to or set conditions to a shipment of radioactive waste which require their ***approval***. Objections should not be arbitrary and should be founded on relevant national or international provisions ***that can be easily identified***. Relevant legislation is not limited to sectoral transport legislation. This Directive should be without prejudice to the rights and obligations of Member States 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 in international law.

(8) Simplification of the existing procedure should not hamper the existing rights of the Member States to object to or set conditions 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 provisions ***as set out in this Directive***. Relevant legislation is not limited to sectoral transport legislation. This Directive should be without prejudice to the rights and obligations of Member States 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 in international law.

Amendment 4

Recital 8 a (new)

(8a) Each Member State remains fully responsible for the management of

radioactive waste and spent fuel under its jurisdiction; nothing in this Directive should imply that a Member State of destination must accept shipments of radioactive waste and spent fuel for final treatment or disposal except where the waste or fuel is for reshipment. Any refusal of such shipments should be justified on the basis of the criteria set out in this Directive.

Amendment 5

Article 1, paragraph 3 a (new)

3a. This Directive is without prejudice to rights and obligations under international law, including, but not limited to, the right of innocent passage and right of transit passage enshrined in the United Nations Convention on the Law of the Sea (UNCLOS).

Amendment 6

Article 3, point 1

(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/or* which is controlled as radioactive waste by a regulatory body under the legislative and regulatory framework of the countries of origin, *transit* and destination;

(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;

Amendment 7

Article 3, point 2

(2) ‘*spent fuel*’ means nuclear fuel that has been irradiated in and permanently removed from a reactor core;

(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 a usable resource that can be reprocessed or be destined for final disposal with no further use foreseen and treated as radioactive waste.*

Amendment 8
Article 5, paragraph 1 a (new)

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.

Amendment 9
Article 5 a (new)

Article 5a

Acknowledgment of receipt of the application by the competent authorities

Not later than 15 calendar days from the date of the receipt of the application by the competent authorities of the Member State of destination and of any Member State of transit, those authorities shall:

(a) send an acknowledgement of receipt of the application to the competent authorities of the Member State of origin, provided that the application is duly completed in compliance with the provisions of Article 14; or

(b) where the application is not duly completed as set out in point (a), request the missing information from the competent authorities of the Member State of origin and inform the competent authorities of the Member State of destination and other Member States of transit, if any, of such request. A copy of that request shall be transmitted to the holder. The sending of such a request shall have the effect of suspending the time-limit for issuing an acknowledgement of receipt. The missing information shall be sent by the competent authorities of the Member State of origin to the competent authorities of the Member States concerned without undue delay. Not later than seven calendar days after the date of receipt of the missing information, the competent authorities of the Member State of destination or transit by which it had been requested shall send

an acknowledgement of receipt of the duly completed application to the competent authorities of the Member State of origin.

Amendment 10
Article 6, paragraph 1

1. Not later than one month from the date of receipt of the duly completed application by the competent authorities of the Member State of destination and of any Member State of transit, they shall issue an acknowledgement of receipt.

Not later than ***three months*** from the date of receipt of ***the duly completed application*** the competent authorities of the Member State of destination and of any Member State of transit shall notify the competent authorities of the ***country*** of origin of their consent or of the conditions which they consider necessary 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 ***second*** subparagraph to make their position known.

1. Not later than ***two months*** from the date of ***the acknowledgement of receipt*** the competent authorities of the Member State of destination and of any Member State of transit shall notify the competent authorities of the ***Member State*** of origin of their consent or of the conditions which they consider necessary for granting 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.

Amendment 11
Article 6, paragraph 2

2. If upon expiry of the periods referred to in the second and third subparagraphs of paragraph 1 no reply has been received from the competent authorities of the Member State of destination and/or the intended Member States of transit, those countries shall be deemed to have given their consent for the shipment requested provided that the acknowledgement of receipt referred to in paragraph 1 has been received from those countries.

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

Amendment 12
Article 6, paragraph 3, point (b)

b) for the Member State of destination, on relevant legislation applicable to the management of radioactive waste or spent fuel **and** on relevant national, Community or international legislation applicable to 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 transport of radioactive material.

Amendment 13

Article 6, paragraph 3, subparagraph 2 a (new)

The same consent and refusal procedure shall be applied for both shipments of radioactive waste and shipments of spent fuel for disposal.

Amendment 14

Article 9, paragraph 2

2. Where a shipment cannot be completed or if the conditions for shipment are not complied with in accordance with the provisions of 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. They shall ensure that the person responsible for the shipment takes corrective safety measures where necessary.

2. Where a shipment cannot be completed or if the conditions for shipment are not complied with in accordance with the provisions of 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 ***on the basis of the applicable legislation on the management of spent fuel and radioactive waste.*** They shall ensure that the person responsible for the shipment takes corrective safety measures where necessary.

Amendment 15

Article 9, paragraph 3

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

3. ***Where the shipment cannot or may not be completed for the reasons referred to in paragraph 1, the holder shall be primarily liable for costs arising, unless otherwise provided for either in any applicable legislation or in any contractual arrangement between the holder and any other person involved in the shipment.***

Amendment 16

Article 10, paragraph 1, subparagraph 3

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

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Amendment 17
Article 10, paragraph 5

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 the provisions of 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 consignee ***will*** be liable for costs arising ***in cases where the shipment cannot or may not be completed.***

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 the provisions of 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.

Where the shipment cannot or may not be completed for the reasons referred to in the first subparagraph, the consignee shall be primarily liable for costs arising, unless otherwise provided for either in any applicable legislation or in any contractual arrangement between the consignee and any other person involved in the shipment.

Amendment 18
Article 11, paragraph 5

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 the provisions of 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 responsible person referred to in paragraph 1 shall be liable for costs arising ***in cases where the shipment cannot or may not be completed.***

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 the provisions of 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.

Where the shipment cannot or may not be completed for the reasons referred to in the first subparagraph, the responsible person referred to in paragraph 1 shall be primarily liable for costs arising, unless otherwise provided for either in any applicable legislation or in any contractual arrangement between that person and any

other person involved in the shipment.

Amendment 19
Article 12, paragraph 5

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 the provisions of 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 9, paragraph 2, applies. The holder *will* be liable for costs arising *in cases where the shipment cannot or may not be completed.*

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 the provisions of 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 9, paragraph 2, applies.

Where the shipment cannot or may not be completed for the reasons referred to in the first subparagraph, the holder shall be primarily liable for costs arising, unless otherwise provided for either in any applicable legislation or in any contractual arrangement between the holder and any other person involved in the shipment.

Amendment 20
Article 16, paragraph 1

1. Member States shall promote agreements in order to facilitate the safe management, including the final disposal, of radioactive waste from countries that produce it in small quantities and where the establishment of appropriate facilities would not be justified from the radiological *point* of view.

1. Member States shall promote agreements in order to facilitate the safe management, including the final disposal, of radioactive waste from countries that produce it in small quantities and where the establishment of appropriate facilities would not be justified from the radiological, *economic, environmental and safety points* of view. *Such agreements shall be concluded subject to the condition that each Member State retains the right to refuse entry into its territory of spent fuel or radioactive waste for final processing or disposal, with the exception of reshipments.*