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REPORT

on the proposal for a Council Directive (Euratom) on the management of spent nuclear fuel and radioactive waste
(COM(2003) 32 – C5-0229/2003 – 2003/0022(CNS))

Committee on Industry, External Trade, Research and Energy

Rapporteur: Alejo Vidal-Quadras

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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PROCEDURAL PAGE

By letter of 13 May 2003 the Council consulted Parliament, pursuant to Articles 31 and 32 of the Euratom Treaty, on the proposal for a Council directive (Euratom) on the management of spent nuclear fuel and radioactive waste (COM(2003) 32 – 2003/0022(CNS)).

At the sitting of 15 May 2003 the President of Parliament announced that he had referred the proposal to the Committee on Industry, External Trade, Research and Energy as the committee responsible and the Committee on the Environment, Public Health and Consumer Policy for its opinion (C5-0229/2003).

The Committee on Industry, External Trade, Research and Energy appointed Alejo Vidal-Quadras Roca rapporteur at its meeting of 22 May 2003.

The committee considered the Commission proposal and draft report at its meetings of 9 July, 9 September, 6 October, 3 November and 27 November 2003.

At the last meeting it adopted the draft legislative resolution by 36 votes to 7, with 2 abstentions.

The following were present for the vote Luis Berenguer Fuster, (chairman), Alejo Vidal-Quadras Roca (rapporteur), Gordon J. Adam (for Massimo Carraro), Konstantinos Alyssandrakis, Per-Arne Arvidsson (for Guido Bodrato), Sir Robert Atkins, Hiltrud Breyer (for Caroline Lucas), Gérard Caudron, Chantal Cauquil (for Fausto Bertinotti pursuant to Rule 153(2)), Giles Bryan Chichester, Marie-Hélène Descamps (for Dominique Vlasto), Harlem Désir, Concepció Ferrer, Christos Folias (for Bashir Khanbhai), Norbert Glante, Michel Hansenne, Roger Helmer (for Jaime Valdivielso de Cué), Elisabeth Jeggle (for W.G. van Velzen pursuant to Rule 153(2)), Hans Karlsson, Karsten Knolle (for Peter Michael Mombaur pursuant to Rule 153(2)), Werner Langen, Paul A.A.J.G. Lannoye (for Nuala Ahern pursuant to Rule 153(2)), Rolf Linkohr, Eryl Margaret McNally, Hans-Peter Martin (for Jeffrey William Titford), Marjo Matikainen-Kallström, Ana Miranda de Lage, Elizabeth Montfort, Seán Ó Neachtain, Paolo Pastorelli, Elly Plooij-van Gorsel, Samuli Pohjamo (for Nicholas Clegg), John Purvis, Godelieve Quisthoudt-Rowohl, Daniela Raschhofer, Imelda Mary Read, Christian Foldberg Rovsing, Paul Rübig, Umberto Scapagnini, Konrad K. Schwaiger, Esko Olavi Seppänen, Claude Turmes, Sabine Zissener (for Angelika Niebler pursuant to Rule 153(2)), Myrsini Zorba, Olga Zrihen Zaari.

The opinion of the Committee on the Environment, Public Health and Consumer Policy is attached.

The report was tabled on 1 December 2003.

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a Council directive (Euratom) on the management of spent nuclear fuel and radioactive waste
(COM(2003) 32 – C5-0229/2003 – 2003/0022(CNS))**

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2003) 32)¹,
 - having regard to Articles 31 and 32 of the Euratom Treaty, pursuant to which the Council consulted Parliament (C5-0229/2003),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Industry, External Trade, Research and Energy and the opinion of the Committee on the Environment, Public Health and Consumer Policy (A5-0442/2003),
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 12 a (new)

12a. The International Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management entitles any State to ban import into its territory of foreign spent fuel and radioactive waste, thus no Member State shall ever be obliged to accept imports of any kind of radioactive

¹ Not yet published in OJ..

waste from other Member States

Justification

The rapporteur agrees that the programme proposed by a Member State may include shipments of nuclear waste to another Member State or third country. However, it should be clearly stated in the directive that no Member State should ever be obliged to accept imports of radioactive waste from other Member States.

Amendment 2
Article 2, paragraph 3

(3) "disposal" means the emplacement of solid or solidified radioactive waste, including spent fuel, in an appropriate facility ***without the intention of retrieval***;

(3) "disposal" means the emplacement of solid or solidified radioactive waste, including spent fuel, in an appropriate ***above-ground or underground*** facility;

Justification

On the basis of current knowledge, it cannot be assumed that radioactive waste stored in a geological repository cannot, even at some point in the distant future, be retrieved, as another and more practical form of waste management might perhaps ultimately become available. The possibility of above-ground disposal cannot be ruled out as a method of management.

Amendment 3
Article 2, paragraph 15

(15) "storage" means the holding of radioactive waste or spent nuclear fuel in ***a*** facility that provides for its containment, with the intention of retrieval.

(15) "storage" means the holding of radioactive waste or spent nuclear fuel in ***an appropriate above-ground or underground*** facility that provides for its containment, with the intention of retrieval.

Justification

Storage may be above ground as well as underground.

Amendment 4
Article 3, paragraph 3

3. Member States shall take all the necessary legislative, regulatory and administrative measures and other steps required to ensure the safe management of spent nuclear fuel and radioactive waste.

3. Member States shall take all the necessary legislative, regulatory and administrative measures and other steps required to ensure the safe ***monitoring and*** management of spent nuclear fuel and radioactive waste, ***including the possibility to retrieve the waste for repackaging or the use of alternative mechanisms for safe disposal if necessary.***

Justification

The ability to monitor and if necessary retrieve and repackage waste is necessary to reduce the risk of radionuclides entering the environment. The legislation should explicitly include the requirement of accessibility and monitoring of waste disposal sites.

Amendment 5
Article 3, paragraph 6

6. Member States shall ensure that there will be effective public information and, where appropriate, participation in order to achieve a high level of transparency on issues related to the management of spent nuclear fuel and radioactive waste under their jurisdiction.

6. Member States shall ensure that there will be effective public information and, where appropriate, participation in order to achieve a high level of transparency on issues related to the management of spent nuclear fuel and radioactive waste under their jurisdiction. ***Public opinion shall be informed about the actions to be taken and the status of the decision-making process, in particular on the criteria adopted for the choice of sites for final disposal.***

The Commission shall implement a European Programme to increase the general public awareness about nuclear waste management.

Justification

Public opinion must be well informed about the actions to be taken and the status of the decision-making process, in particular on the criteria adopted for the choice of sites for final disposal. All Member States should pay particular attention in involving local communities and to increase in general transparency and democracy. Besides the national effort to maintain the population informed on this issue, it would be appropriate the Commission to establish a European programme to increase public awareness.

Amendment 6
Article 4, paragraph 3

3. Where there is no suitable alternative to disposal, and where such a disposal option is not yet available, ***Member States shall integrate the following decision points into their programmes:***

3. Where there is no suitable alternative to disposal, and where such a disposal option is not yet available, ***each Member State shall prepare and present to the Commission, no later than 2006, a detailed programme for the long-term management of all the radioactive waste types under its jurisdiction. The programme shall include all the different steps described in the Annex.***

Once the programme has been approved by the Council, each Member State shall fix its own deadlines to put the programme in force. In particular, Member State shall fix deadlines for the authorisation for development of appropriate disposal site(s) and for authorisation for operation of the disposal facilities. Such deadlines shall be consistent with the best technologies available at the time of the preparation of the programme.

(a) authorisation for development of appropriate disposal site(s) to be granted no later than 2008. In the case of geological disposal of high-level and long-lived radioactive waste, this authorisation may be conditional upon a further period of detailed underground study;

(b) in the case of short-lived low and intermediate-level radioactive waste, if this is to be disposed of separately from high-level and long-lived radioactive waste, authorisation for operation of the disposal facility to be granted no later than 2013;

(c) in the case of high-level and long-lived radioactive waste, to be disposed of in a geological repository, authorisation for operation of the

Justification

Because the different situations are far from being homogenous, it seems inappropriate to fix a unique timetable for all Member States, as the Commission is proposing. Furthermore, the proposed deadlines are perhaps too narrow even for the most advanced Member States, with long-established programmes for the development of deep geological disposal. A different approach, including two steps, would be more effective and actually feasible.

Amendment 7

Article 4, paragraph 3 a (new)

3a Each Member State shall publish national individual programmes, covering all stages of waste management, up to and including the implementation of permanent disposal solutions. Such programmes shall integrate the technical, geological, political and economic considerations specific to each country.

Member States shall, by 2006, submit to the European Commission a national programme setting their own timescales for final disposal of waste, taking into account their particular legislative and political circumstances.

Once the national programmes have been submitted, they shall be peer-reviewed in close co-operation by the European Commission and the national regulators so that they can be implemented accordingly.

Justification

Member States are at different stages in the waste management decision-making process. The programme dates which the Directive imposes on all Member States, to achieve final disposal by 2018, is difficult, even for those EU countries whose programmes are most advanced. The Directive should let Member States have the freedom to set their own national programmes within reasonable limits.

Amendment 8 Article 4, paragraph 6

6. The programme may include shipments of radioactive waste or spent fuel to another Member State or third country if such shipments are fully in compliance with existing EU legislation, principally Directive 92/3/Euratom, and International commitments, are covered by firm contracts and only take place ***to*** States with appropriate facilities that meet ***accepted norms and standards of the Member State of origin and***, in the case of material within the meaning of Article 197 of the Treaty, ***are under*** adequate safeguards.

6. The programme may include shipments of radioactive waste or spent fuel to another Member State or third country if such shipments are fully in compliance with existing EU legislation, principally Directive 92/3/Euratom, and International commitments, are covered by firm contracts and only take place ***with the prior written informed consent of*** States with appropriate facilities that meet ***EU and international norms and standards, principally the International Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management.*** In the case of material within the meaning of Article 197 of the Treaty, adequate safeguards ***must be applied.***

Justification

The rapporteur agrees that the programme proposed by a Member State may include shipments of nuclear waste to another Member State or third country. However, it is worth stressing that such shipments must be fully in compliance with existing EU legislation and international commitments. Moreover, it should be clearly forbidden to Member States to sign any contracts for shipments to third countries whose facilities do not meet EU and

international norms and standards (above all the International Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management).

Amendment 9
Article 5, title

Research and technological development in radioactive waste management

Research and technological development in radioactive waste management **and minimisation**

Justification

Recital 17 addresses, inter alia, the need for research and technological development in the area of minimisation of waste. It is precisely this type of research that the European Community is seeking to strongly support.

Amendment 10
Article 5, paragraph 2

2. Based on the regular reports by Member States required under Article 7 of this Directive, the Commission shall identify common areas of research and technological development that could be co-ordinated at the Community level, **taking** fully into account the activities under the research and training programmes adopted pursuant to Article 7 of the Treaty.

2. Based on the regular reports by Member States required under Article 7 of this Directive, the Commission shall identify common areas of research and technological development that could be co-ordinated at the Community level, **with priority being given to the reduction of waste. It shall take** fully into account the activities under the research and training programmes adopted pursuant to Article 7 of the Treaty.

Justification

Community policy is aimed at reducing the quantity and harmfulness of waste. Given the very harmful nature of radioactive waste, the Commission is seeking to strongly promote research aimed at producing less, or less harmful, radioactive waste.

Amendment 11
Article 5, paragraph 3

3. The Commission shall encourage co-operation between the Member States in common areas of research and technological development in line with the provisions of Chapter 1 of Title II of the Treaty. **To this end** specific tasks may be entrusted to one or more Joint Undertakings to be established under Chapter 5 of Title II of the Treaty.

3. The Commission shall encourage co-operation between the Member States in common areas of research and technological development in line with the provisions of Chapter 1 of Title II of the Treaty, **mainly through the instruments of the Framework Programmes for Research and Technological Development. When appropriate, specific and clearly defined** tasks may be entrusted to one or more Joint

Undertakings to be established under
Chapter 5 of Title II of the Treaty.

Justification

Research in this field must be properly supported in order to assess the technological feasibility of other options (such as partitioning and transmutation). In this context, the rapporteur agrees that the highest possible level of co-operation and co-ordination between Member States is necessary, particularly in common areas of research and technological development. However, it is important to reach this goal keeping such activities within the Framework Programme for RTD. Moreover, in case one or more Joint Undertakings are established, their purpose should be clearly identified and defined in order to avoid duplications.

EXPLANATORY STATEMENT

All Member States and candidate countries produce radioactive waste from nuclear power plants, research reactors and many medical and industrial applications. The most radiologically toxic forms of these materials (in particular, spent nuclear fuel) are presently held in temporary storage facilities. None has yet been permanently disposed of, and, even worst, there are no immediate plans for permanent disposal in any Member State.

So far, Member States deferred the solution of the problem of permanent disposal of high-level nuclear waste for several reasons, including the relatively large capacity of temporary storage facilities and their safety in the short term, objective technical difficulties for the long term management, fears in the public opinion and, consequently, concerns about public acceptability.

Independently of energy choices of single Member States, the waste that exists now and the one that will be produced during useful life-time of presently operating nuclear plants must be dealt with in a safe way. The rapporteur believes that actions must be taken very soon to avoid the responsibility of managing the growing quantities of spent fuel and high-level waste held in temporary storage to be passed on to future generations.

For these reasons, the rapporteur believes that a legislative initiative must be welcome. Though others argue that a recommendation or a resolution would have been a more appropriate instrument than a directive, the particular public sensitivity on the matter calls for a democratic approach with a clear involvement of the European Parliament.

Moreover, the rapporteur is convinced that this directive is not a duplication of the International Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management, which entered into force in June 2001. The Joint Convention aims at achieving a high level of world-wide safety in spent fuel and radioactive waste management, but it does not contain any obligation for single countries to fix a clear programme (with a precise timetable) for the management of long-living nuclear waste. Such obligation is the added value of this directive.

Concerning the legal basis of the proposal (Art. 31 of the Euratom Treat), it appears necessary to examine in detail the opinion of the legal service of the Council on the meaning of the judgement of the Court of Justice (case C-29/99, delivered on 10 December 2002), regarding Community competence in the field of nuclear safety. In this context, the EP legal service has been asked for an opinion.

Coming to the core of the proposal, there is wide consensus on the necessity that Member States develop appropriate strategies and prepare detailed programmes for the long-term management of all the waste types under their jurisdiction. In these strategies an essential issue is that each Member State should fix a clear timetable. However, because the different situations are far from being homogenous, the rapporteur believes it is un-appropriate to fix a unique timetable for all Member States, as the Commission is proposing in Art. 4. Furthermore, the deadlines fixed in Art. 4 are perhaps too narrow even for the most advanced Member States, with long-established programmes for the development of deep geological disposal.

A different approach, including two steps, would be more effective and actually feasible:

1. Each Member State should propose its own deadline to prepare and present to the Commission, no later than 31 December 2006, a detailed programme for the long-term management of all the radioactive waste types under their jurisdiction. The programme should include the procedures and criteria for the choice of the site (or sites) for final disposal. All procedures and criteria set by each Member States should comply with the IAEA standards and in particular with the International Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management.
2. Once the programme has been presented, each Member State should fix its own deadlines to put the programme in force, choose the site, build the disposal facility and operate it. In particular, Member State should fix deadlines for the authorisation for development of appropriate disposal site(s) and the deadline for authorisation for operation of the disposal facilities.

A directive forcing all Member States to operate in this way would reach the goal with the necessary flexibility to cope with the different situations in the EU. In this context, special attention should be paid to the situation in enlargement countries. Spent fuel management has become a crucial issue in the last decade because shipments to Russia for reprocessing or storage are no longer possible, so these countries have had to construct urgently temporary storage facilities. For these countries, the Commission should be particularly flexible in the process of negotiating the above mentioned programmes.

The rapporteur wants to stress the importance that public opinion be well informed about the actions to be taken and the status of the decision-making process, in particular on the criteria adopted for the choice of sites for final disposal. All Member States should pay particular attention in involving local communities and to increase in general transparency and democracy. Besides the national effort to maintain the population informed on this issue, the Commission should also establish a European programme to increase public awareness.

Although deep geological disposal appears at the moment the safest way to permanently store high-level nuclear waste, research in this field must be properly supported in order to assess the technological feasibility of other options (such as partitioning and transmutation). In this context, the rapporteur agrees that the highest possible level of co-operation and co-ordination between Member States is necessary, particularly in common areas of research and technological development. However, it is important to reach this goal keeping such activities within the Framework Programme for RTD. Moreover, in case one or more Joint Undertakings are established, their purpose should be clearly identified and defined in order to avoid duplications.

The rapporteur agrees that the programme proposed by a Member State may include shipments of nuclear waste to another Member State or third country. However, it is worth stressing that such shipments must be fully in compliance with existing EU legislation and international commitments. Moreover, it should be clearly forbidden to Member States to sign any contracts for shipments to third countries whose facilities do not meet EU and international norms and standards (above all the International Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management). Needless to say, for the most radiologically toxic forms of waste, adequate safeguards must be applied. Also, it should be clearly stated in the directive that no Member State should ever be obliged to accept imports of radioactive waste from other Member States.

6 November 2003

OPINION OF THE COMMITTEE ON THE ENVIRONMENT, PUBLIC HEALTH AND CONSUMER POLICY

for the Committee on Industry, External Trade, Research and Energy

on the proposal for a Council Directive (Euratom) on the management of spent nuclear fuel
and radioactive waste
(COM(2003) 32 – C5-0229/2003 – 2003/0022(CNS))

Draftsman: Bart Staes

PROCEDURE

The Committee on the Environment, Public Health and Consumer Policy appointed Bart Staes draftsman at its meeting of 16 June 2003.

It considered the draft opinion at its meetings of 7 October 2003 and 4 November 2003.

At the last meeting it adopted the following amendments unanimously.

The following were present for the vote: Caroline F. Jackson (chairman), Mauro Nobilia (vice-chairman), Alexander de Roo (vice-chairman), Guido Sacconi (vice-chairman), Bart Staes (draftsman), María Luisa Bergaz Conesa, Hans Blokland, John Bowis, Hiltrud Breyer, Dorette Corbey, Chris Davies, Avril Doyle, Anne Ferreira, Marialiese Flemming, Karl-Heinz Florenz, Cristina Gutiérrez Cortines, Christa Klaß, Eija-Riitta Anneli Korhola, Hans Kronberger, Bernd Lange, Torben Lund, Minerva Melpomeni Malliori, Rosemarie Müller, Riitta Myller, Marit Paulsen, Frédérique Ries, Dagmar Roth-Behrendt, Ursula Schleicher, Inger Schörling, Jonas Sjöstedt, Renate Sommer, María Sornosa Martínez, Antonios Trakatellis, Elena Valenciano Martínez-Orozco, Peder Wachtmeister, Phillip Whitehead.

SHORT JUSTIFICATION

Overriding Issues

The publication of both draft Directives in the so-called nuclear package has resulted in some key questions being raised. The Parliament should not proceed with its review until:

- the Commission has answered the questions of Member States (MS) submitted via the Atomic Questions Working Group, Council Document, 11046/03, 30th June 2003;
- the Legal Services of both Parliament and Council have reviewed the legal bases of both Directives. That is crucial, because the use of Articles 30, 31, 32 of the Euratom Treaty as the legal basis for the introduction of the Directives is flawed. These articles relate to health and safety of workers and the public. They do not relate to the safety standards of nuclear facilities, decommissioning funds or waste management and should be introduced under Article 203 of the Euratom Treaty.

Waste Directive

The main thrust of the waste Directive is the setting of unified timetables for the construction and operation of nuclear waste facilities. This approach will not benefit industry, environment or society. Furthermore, the Directive should exclude certain mediums for the disposal of nuclear waste, such as disposal at sea or in space and should prohibit the export of nuclear waste or spent nuclear fuel to third countries. Finally, the ability to monitor and if necessary retrieve waste from storage or disposal facilities must not be excluded.

Disposal or Storage Options: The draft Directive states that there is broad consensus that deep geological disposal is the most suitable option to deal with hazardous waste. However:

- There is no broad international consensus amongst technical experts;
- Geology and land use varies across the European Union (EU); this will be ignored if only one disposal method can be chosen;
- The draft Directive does not mention the need to allow long-term monitoring to provide information on the rate at which radioactivity is leaking from any disposal site;
- The draft Directive appears to rule out the need to allow the waste to be retrieved if necessary, which is a fundamental requirement to secure the long-term safety of any disposal site;
- In a number of MS, e.g. France, national laws make it obligatory to explore a variety of options. The review of different disposal or management routes is an essential part of the assessment program.

Establishment of Timetables: One key point of the Directive is that it proposes that EU wide timetables be established for the licensing and operation of waste disposal facilities. However:

- No MS will, under current conditions, be able to meet the timetables for the disposal of high-level radioactive waste and many cannot achieve the timetable of low level radioactive waste. Even Finland, the only MS where a site has already been selected for the disposal of high level radioactive waste is not envisaging operation until 2020, two years after the Directive requires it.
- There is no justification or logic in having one date for all MS, given the huge variation in the size and history of their nuclear programmes and the current status of Member States research and development programmes into radioactive waste management.

- Setting a timetable for disposal would mean that decisions would be driven by the demands of meeting the timetable, rather than by long-term safety concerns.

Waste Export: Article 4 of the draft Directive states that waste may be shipped to another Member State or third country if the recipient state has the same standards as that sending it. Nuclear waste created within the EU, should not be exported to third countries, given the environmental and safety dangers that come with transport and storage of nuclear waste. Furthermore, waste will only be exported when it is cheaper than managing it in the country of production. Cheaper storage will almost certainly result in lower environmental protection standards. Therefore, the Directive should exclude waste export.

The Way Forward: Rather than the proposed text, the Directive should be revised to ensure that:

- 1) The Commission will publish the current plans for the management and disposal of radioactive waste for each MS and allow comment.
- 2) The Commission will draw up guidelines on waste disposal mechanisms that are unacceptable e.g. dumping at sea, dumping in space, reprocessing, export outside the EU etc.
- 3) The Commission should prepare a Directive on guidelines for public consultation for the development of sites for the disposal of radioactive waste. This would draw on existing international treaties – such as the Aarhus Convention – and existing Directives, such as the Strategic Environmental Assessment Directive – and require that those affected by the decision of an authority or regulator be given party status to the proceedings and the ability to raise objections irrespective of national borders.

AMENDMENTS

The Committee on the Environment, Public Health and Consumer Policy calls on the Committee on Industry, External Trade, Research and Energy, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission¹

Amendments by Parliament

Amendment 1
Recital 3 a (new)

(3a) Article 203 of the Euratom Treaty stipulates that if action is necessary to attain one of the objectives of the Community and the Euratom Treaty has not provided the necessary powers, the Council shall, acting unanimously on a proposal from the Commission and after consulting with the Parliament, take appropriate measures.

¹ Not yet published in OJ..

Justification

The use of Article 203 of the Euratom Treaty should be proposed as the most appropriate mechanism for the adoption of these new powers.

Amendment 2

Recital 15

(15) There is a very broad international consensus amongst technical experts that, on the basis of present knowledge, geological disposal is the most suitable method for long-term management of the most hazardous forms of solid and solidified radioactive waste.

(15) A number of options for the storage, management or disposal of radioactive waste shall continue to be assessed at the Community and Member State levels.

Justification

No Member State has yet constructed a deep geological disposal facility and therefore no assessments have been made of the long-term viability of this method of waste management. Furthermore, it is incorrect to say that there is 'very broad international consensus' that geological disposal is the most suitable method at this stage. Therefore, a number of options should continue to be assessed. Member States' choices of waste management options must be driven by the least environmentally damaging option available now and in the future, and must also incorporate the requirement that the waste must remain monitorable and retrievable in order to allow future generations to make their own choices about how to deal with such waste.

Amendment 3

Recital 16

(16) The setting of deadlines at Community level for the implementation of appropriate disposal systems will ensure that undue burdens are not imposed on future generations while at the same time respecting, both now and in the future, the basic principles of radiation protection laid down in Chapter 1 of Directive 96/29/Euratom.

(16) Every effort must be taken to ensure that the environmental burdens placed upon future generations are kept to an absolute minimum while at the same time respecting, both now and in the future, the basic principles of radiation protection laid down in Chapter 1 of Directive 96/29/Euratom.

Justification

The imposition of community wide targets, regardless of size and history of nuclear programmes and which ignores the status of research and development programmes for the

operation of nuclear waste facilities, endangers future generations. Facilities designed to store high level radioactive waste must remain intact for hundreds of thousands of years. Consequently, extreme care must be taken in designing and siting such facilities. The establishment of artificial timetables will detract from this task and should be abandoned. The possibility of choice in waste management is the only option for us to mitigate the burden on future generations. This means that no irreversible decision should be taken now.

Amendment 4
Recital 18 a (new)

(18 a) Citizens who have not benefited from the production of nuclear waste should not carry the potential environmental burden. Therefore, nuclear waste, including plutonium and spent nuclear fuel should not be exported to third countries for waste storage, reprocessing, MOX fabrication or waste treatment. The relevant provisions of Council Directive 92/3 Euratom on the supervision and control of shipments of radioactive waste between Member States and into and out of the Community should be amended accordingly.

Justification

The export of radioactive waste to third countries must be prohibited to ensure that waste is not dumped in countries with lower environmental or public consultation standards. Furthermore, transportation of nuclear waste poses serious environmental, health, and safety risks.

Amendment 5
Article 1, paragraph 1, letter (b)

(b) to achieve and maintain ***a high level*** of safety in the management of spent nuclear fuel and radioactive waste in order to protect human health and the environment by taking all necessary precautionary and preventive measures, and with a view to ensuring ***adequate*** levels of protection are achieved throughout the Community in a consistent and effective manner;

(b) to achieve and maintain ***the highest level*** of safety in the management of spent nuclear fuel and radioactive waste in order to protect human health and the environment by taking all necessary precautionary and preventive measures, and with a view to ensuring ***the highest levels of protection that are technically possible*** are achieved throughout the Community in a consistent and effective manner;

Justification

The requirement to achieve high standards of safety in the management of waste is insufficient and vague. This draft legislation must result in an increase in nuclear safety and thus the highest technical standards must be applied across the Union. Given the long-term nature of the waste, and the burden this will place on future generations, there must also be a requirement to constantly improve safety standards and management techniques.

Amendment 6
Article 1, paragraph 1, letter (c)

(c) to enhance effective public information and, ***where appropriate***, participation in order to ensure the required transparency in the relevant decision-making processes.

(c) to enhance effective public information and participation in order to ensure the required transparency in the relevant decision-making processes.

Justification

Effective public information would only be used where appropriate and thus 'where appropriate' can be deleted from the text.

Amendment 7
Article 3, paragraph 1

1. Member States shall take all necessary measures to ensure that spent nuclear fuel and radioactive waste are managed ***in such a way that individuals, society and the environment are adequately protected against radiological hazards.***

1. Member States shall take all necessary measures to ensure that spent nuclear fuel and radioactive waste are managed ***without endangering human health or the environment, in particular without using processes or methods that could result in the radioactive contamination of the water, soil or airspace.***

Justification

It is essential that the framework for Directives gives a high priority to the protection of society and the environment. The proposed language was approved by the Commission in its November 2002 draft and should be re-inserted into the Directive.

Amendment 8
Article 3, paragraph 2

2. Member States shall ensure that the production of radioactive waste is kept to the minimum practicable.

2. Member States shall ensure that the production of radioactive waste is kept to the minimum practicable **and that technological practices that produce larger volumes of nuclear waste than comparative techniques will be prohibited.**

Justification

Action must be taken to exclude practices that result in larger than necessary volumes of radioactive waste, or which make nuclear waste management more complex. For example, the reprocessing of one tonne of spent nuclear fuel produces between 6 and 80 tonnes of low and intermediate level waste in many different forms – including the associate volume of decommissioning waste from the reprocessing plant, with little or no reduction in final storage space required for the high level waste.

Amendment 9
Article 3, paragraph 3

3. Member States shall take all the necessary legislative, regulatory and administrative measures and other steps required to ensure the safe management of spent nuclear fuel and radioactive waste.

3. Member States shall take all the necessary legislative, regulatory and administrative measures and other steps required to ensure the safe **monitoring and** management of spent nuclear fuel and radioactive waste, **including the possibility to retrieve the waste for repackaging or the use of alternative mechanisms for safe disposal if necessary.**

Justification

The ability to monitor and if necessary retrieve and repack waste is necessary to reduce the risk of radionuclides entering the environment. The legislation should explicitly include the requirement of accessibility and monitoring of waste disposal sites.

Amendment 10
Article 3, paragraph 6

6. Member States shall ensure that there will be effective public information and, **where appropriate**, participation in order to achieve **a high** level of transparency on issues related to the management of spent nuclear fuel and radioactive waste under their jurisdiction.

6. Member States shall ensure that there will be effective public information and participation in order to achieve **the highest** level of transparency on issues related to the management of spent nuclear fuel and radioactive waste under their jurisdiction. **Those affected by a decision of an authority or regulatory body shall be**

***granted party status to the proceedings
irrespective of national borders.***

Justification

It is necessary to ensure that best practice is used in order for the public to be fully informed of developments regarding the management of radioactive waste. Furthermore, given the high population density of Europe and bearing in mind the time-periods involved in isolating high-level nuclear waste from the environment, wide spread cross border consultation is essential. This must be reflected in the Directive.

Amendment 11
Article 3, paragraph 6 a (new)

6a. Certain methods of disposal of radioactive waste shall be excluded for environmental reasons, this includes:
- Dumping at sea
- Disposal in under-sea repositories
- Disposal in space.

Justification

The storage or disposal of radioactive waste must be undertaken in a medium that is conducive to preserving the containment system and which does not allow for the dispersal of radioactive material. Disposal in space or close to water cannot guarantee this criterion and must be universally excluded as a potential option.

Amendment 12
Article 4, paragraph 3

3. Where there is no suitable alternative to disposal, and where such a disposal option is not yet available, Member States shall integrate the following decision points into their programmes: ***Delete***

(a) authorisation for development of appropriate disposal site(s) to be granted no later than 2008. In the case of geological disposal of high-level and long-lived radioactive waste, this authorisation may be conditional upon a further period of detailed underground study; ***Delete***

- (b) *in the case of short-lived low and intermediate-level radioactive waste, if this is to be disposed of separately from high-level and long-lived radioactive waste, authorisation for operation of the disposal facility to be granted no later than 2013;* *Delete*
- (c) *in the case of high-level and long-lived radioactive waste, to be disposed of in a geological repository, authorisation for operation of the disposal facility to be granted no later than 2018.* *Delete*

Justification

No Member State will, under current conditions, be able to meet the timetables for the disposal of high-level radioactive waste and many cannot achieve the timetable Low Level Radioactive Waste. Even Finland, where a site has already been selected in principle for the disposal of high level radioactive waste – the only MS to do so to date – is not envisaging operation until 2020, two years after the Directive requires it – even ignoring the delays usually associated with large construction projects.

There is no justification or logic in having one date for all MS, given the huge variation in the size and history of their nuclear programmes and the current status of Member States research and development programmes into radioactive waste management.

Fixing a date for the operation of a facility, either uniformly across the EU or within a MS will undermine public confidence in the site selection and analysis of a waste facility and potentially influence scientific rigour and political decision making as:

- ✓ *Communities potentially affected by a waste facility may feel that they are being chosen on the basis of a restricted timetable as opposed to being selected as the most suitable candidate.*
- ✓ *Decisions will be driven by the need to meet the timetable, rather than by the requirement to find the most suitable option available on safety and environmental grounds*
- ✓ *Public consultation and stakeholder dialogues and scientific review may be actually or perceived as restricted due to an artificial timetable.*
- ✓ *The ability to abandon an unsuitable potential site is reduced – as occurred in the UK in 1997 – if fixed timetables for construction/operation are in force.*
- ✓ *Fixing dates takes no account of future activities, such as the need for new facilities.*

Amendment 13
Article 4, paragraph 4

4. Based on the regular reports by Member States and the Commission required under Article 7, the Council may decide, on a proposal by the Commission, to modify the dates referred to in paragraph 3 in the interest of enhanced nuclear safety within the European Union. **Delete**

Justification

As paragraph 3 is deleted so must paragraph 4.

Amendment 14
Article 4, paragraph 4 a (new)

4a. The transport of nuclear waste, including plutonium, or spent nuclear fuel for reprocessing or final disposal is prohibited without first notifying and seeking the approval of the local authority through which the waste is to be transported.

Justification

It is hazardous to transport nuclear waste and local authorities should be informed of such transports so that they can take appropriate safety precautions in order to protect the local community.

Amendment 15
Article 4, paragraph 5

5. The programme shall pay special attention to the general requirements listed in Article 3 and take into account the different steps in the disposal process described in the Annex. In this context, indefinite surface or near-surface storage of spent nuclear fuel that is not to be reprocessed is not considered a suitable or sustainable alternative to disposal. **Delete**

Justification

Given the lack of experience in the disposal or long-term management of spent nuclear fuel, it is premature for the Directive to propose ruling out certain options. Therefore, above or near ground storage options should not be excluded at this stage.

Amendment 16 Article 4, paragraph 6

6. The programme may include shipments of radioactive waste or spent fuel to another Member State or third country if such shipments are fully in compliance with existing EU legislation, principally Directive 92/3/Euratom, and International commitments, are covered by firm contracts and only take place to States with appropriate facilities that meet accepted norms and standards of the Member State of origin and, in the case of material within the meaning of Article 197 of the Treaty, are under adequate safeguards.

6. The export of nuclear waste, including plutonium, or spent nuclear fuel to third countries or Member States for reprocessing or final disposal is prohibited. The relevant provisions of Council Directive 92/3 Euratom on the supervision and control of shipments of radioactive waste between Member States and into and out of the Community should be amended accordingly.

Justification

Nuclear waste created within Member States should not be exported to third countries or other Member States. The requirement that facilities meet the same standards as that sending it is too loose. The siting, construction and operation of nuclear waste facilities all require public involvement and scrutiny as well as strong regulatory systems and independent scientific scrutiny. All of these conditions require strict standards throughout the operating life of the facility and not just in the construction phase. Waste will only be exported when it is cheaper than managing it in the country of production. Cheaper storage will almost certainly result in lower environmental protection standards and therefore the Directive should exclude this practice as a precautionary approach. The export of hazardous material for dumping in third countries is banned under international agreements, the EU must take similar action with nuclear waste and spent fuel.

Amendment 17 Article 7 a (new)

Access to information and public participation

Member States shall apply Directives 2003/4/EC¹ and 2003/35/EC² on access to information and public participation on measures laid down in this Directive.

¹*Official Journal L 041, 14/02/2003 P. 0026 - 0032*

²*Official Journal L 156, 25/06/2003 p. 17 - 25*

Justification

Information produced and reports compiled should be accessible to the public as provided for in the Directive on access to environmental information (¹Official Journal L 041, 14/02/2003 P. 0026 - 0032) and the public should be able to participate in decision making as provided for in the Directive on public participation in environmental decision making (²Official Journal L 156, 25/06/2003 P. 0017 - 0025). Those two directives provide for a comprehensive set of rights as well as well-balanced exemptions.