II

*(Acts whose publication is not obligatory)*

# COUNCIL

## 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**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission (1), 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,

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

Having regard to the opinion of the Economic and Social Committee (3),

Whereas on 2 February 1959 the Council adopted Directives laying down the basic standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation (4), as amended by Directive 80/836/Euratom (5) and Directive 84/467/Euratom (6);

Whereas, pursuant to Article 2 of Directive 80/836/Euratom, these basic safety standards apply *inter alia* to the transport of natural and artificial radioactive substances;

Whereas, pursuant to Article 3 of Directive 80/836/Euratom, each Member State must make compulsory the reporting of activities which involve a hazard arising from ionizing radiation; whereas, in the light of possible dangers and other relevant considerations these activities are subject to prior authorization in cases decided upon by each Member State;

Whereas Member States have consequently set up systems within their territories in order to meet the requirements of Article 3 of Directive 80/836/Euratom laying down basic standards in accordance with Article 30 of the Euratom Treaty; whereas, therefore, by means of the internal controls that Member States apply on the basis of national rules consistent with existing Community and any relevant international requirements, Member States continue to ensure a comparable level of protection within their territories;

Whereas the protection of the health of workers and the general public requires that shipments of radioactive waste between Member States and into and out of the Community be subjet to a system of prior authorization; whereas this requirement is in line with the Community's policy of subsidiarity;

Whereas the European Parliament resolution of 6 July 1988 on the findings of the Committee of Inquiry into the Handling and Transport of Nuclear Materials (7) calls *inter alia*, for comprehensive Community rules to make transfrontier movements of nuclear waste subject to a system of strict controls and authorizations from their point of origin to their point of storage;

Whereas Council Directive 84/631/EEC of 6 December 1984 on the supervision and control within the European Community of the transfrontier shipment of hazardous waste (8) does not apply to radioactive waste;

(1) OJ No C 210, 23. 8. 1990, p. 7.
(2) OJ No C 267, 14. 10. 1991, p. 210.
(3) OJ No C 168, 10. 7. 1990, p. 18.
(4) OJ No 11, 20. 2. 1959, p. 221/59.
(5) OJ No L 246, 17. 9. 1980, p. 1.
(6) OJ No L 265, 5. 10. 1984, p. 4.
(7) OJ No C 235, 12. 9. 1988, p. 70.
(8) OJ No L 326, 13. 12. 1984, p. 31. Directive as last amended by Directive 86/279/EEC (OJ No L 181, 4. 7. 1986, p. 13).

Whereas by Decision No 90/170/EEC [1] the Council has decided that the Community should be Party to the Basel Convention on the control of transboundary movements of hazardous wastes and their disposal of 22 March 1989; whereas that Convention does not apply to radioactive waste;

Whereas all the Member States have subscribed to the International Atomic Energy Agency (IAEA) code of good practice on the international transboundary movement of radioactive waste;

Whereas the management of radioactive waste necessitates supervision and control including a compulsory and common notification procedure for shipments of such waste;

Whereas measures ensuring *post-factum* control of shipments are necessary;

Whereas the competent authorities of the Member States of destination of radioactive waste should be able to raise objections to shipments of radioactive waste;

Whereas it is also desirable for the competent authorities of the Member State of origin and of the Member State(s) of transit to be able, subject to certain criteria, to lay down conditions in respect of the shipment of radioactive waste on their territory;

Whereas, to protect human health and the environment against dangers arising from such waste, account must be taken of risks occurring outside the Community; whereas, therefore, in the case of radioactive waste entering and/or leaving the Community, the third country of destination or origin and any third country or countries of transit must be consulted and informed and must have given their consent;

Whereas the Fourth ACP-EEC Convention signed at Lomé on 15 December 1989 contains specific provisions governing the export of radioactive waste from the Community to non-member States party to that Convention;

Whereas radioactive waste may contain nuclear materials as defined by Commission Regulation (Euratom) No 3227/76 of 19 October 1976 concerning the application of the provisions on Euratom safeguards [2] and the transport of such substances must be subjected to the International Convention on the physical protection of nuclear materials (IAEA, 1980),

HAS ADOPTED THIS DIRECTIVE:

TITLE I

## Scope

*Article 1*

1. This Directive shall apply to shipments of radioactive waste between Member States and into and out of the Community whenever the quantities and concentration exceed the levels laid down in Articles 4 (a) and (b) of Directive 80/836/Euratom.

2. Specific provisions concerning reshipment of such waste are set out in Title IV.

*Article 2*

For the purpose of this Directive:

— *'radioactive waste'* means any any material which contains or is contaminated by radio-nuclides and for which no use is foreseen,

— *'shipment'* means transport operations from the place of origin to the place of destination, including loading and unloading, of radioactive waste,

— the *'holder'* of radioactive waste means any natural or legal person who, before carrying out a shipment, has the legal responsibility for such materials and intends to carry out shipment to a consignee,

— the *'consignee'* of radioactive waste means any natural or legal person to whom such material is shipped,

— *'place of origin'* and *'place of destination'* mean places situated in two different countries, either Member States of the Community or third countries, accordingly called 'country of origin' and 'country of destination',

— *'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 defined in Titles I to IV inclusive; these competent authorities shall be designated in accordance with Article 17,

— *'sealed source'* has the the meaning given to it in Directive 80/836/Euratom.

*Article 3*

The transport operations necessary for shipment shall comply with Community and national provisions and with international agreements on the transport of radioactive material.

TITLE II

## Shipments between Member States

*Article 4*

A holder of radioactive waste who intends to carry out a shipment of such waste or to arrange for such a shipment to be carried out shall submit an application for authori-

[1] OJ No L 92, 7. 4. 1990, p. 52.
[2] OJ No L 363, 31. 12. 1976, p. 1. Regulation as amended by Regulation (Euratom) No 220/90 (OJ No L 22, 27. 1. 1990, p. 56).