

**Opinion
of the Group of experts referred to in Article 31 of the Euratom Treaty
on**

Draft proposal for a Council Directive (Euratom)

on the management of spent nuclear fuel and radioactive waste

The Group of experts referred to in Article 31 of the Euratom Treaty has noted that:

- the legal basis chosen by the Commission for this Directive is Title II Chapter 3 of the Euratom Treaty;
- the European Court of Justice stated that “it is not appropriate in order to define the Community’s competencies, to draw an artificial distinction between the protection of the health of the general public and the safety of sources of ionising radiation”
- this legal basis has been disputed but this Group does not regard itself as competent to give an opinion on the appropriateness of the legal basis.

Having considered, that

Council Directive 96/29/Euratom lays down the Basic Safety Standards for the health protection of the general public and workers against the dangers of ionising radiation and requires that Member States ensure the safe management of spent nuclear fuel and radioactive waste, in compliance with the said Directive;

Directive 92/3/Euratom establishes a supervision and control system of shipments of radioactive waste between Member States and into and out of the Community, including a compulsory and common notification procedure for shipments of such waste, and limitations and criteria regarding the third countries to which radioactive waste may be exported;

The International Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management, which entered into force on June 18 2001, to which all Member States are or intend to be a party, aims at achieving and maintaining a high level of safety world-wide in spent nuclear fuel and radioactive waste management through the enhancement of national measures and international co-operation;

All Member States produce spent fuel and/or radioactive waste to a varying degree;

Whereas spent nuclear fuel and radioactive waste pose potential threats to human health and the environment, both now and in the future, that may have consequences beyond national borders;

Whereas it is therefore necessary to take measures at the Community level to ensure a high level of radiation protection throughout the European Union.

Issues the following opinion to the European Commission:

1. The document submitted to the Group needs improvement and the Commission has been made aware of the points that should be amended or clarified. In particular, concerns were expressed that the document, as written, may limit the policy options and planning flexibility of Member States.
2. However, the Group wishes to commend the Commission for its efforts to enhance radiation protection by requiring Member States to develop appropriate programmes for the safe long-term management of all spent nuclear fuel and radioactive wastes under their jurisdiction.
3. The Group of experts supports the initiative of the European Commission to propose a common approach to the management of spent nuclear fuel and radioactive waste that strengthens the Community health protection policy as it is established under Chapter III of the Euratom Treaty. This initiative should promote the conditions necessary to enhance harmonisation of the management of spent nuclear fuel and radioactive waste within the enlarged European Union.
4. Considering the variety of technical aspects that are likely to arise from any such initiative on the Community health protection policy, the Group recommends that the Commission consults with the Scientific and Technical Committee to establish the most appropriate mechanism for obtaining “Article 31 opinion” by experts under Chapter III of the Euratom Treaty.

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Chairman of the plenary meeting