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CODE OF PRACTICE ON THE INTERNATIONAL TRANSBOUNDARY MOVEMENT OF RADIOACTIVE WASTE

1. In resolution GC(XXXII)/RES/490, adopted in 1988, the General Conference requested the Director General "to establish a representative technical working group of experts with the objective of elaborating an internationally agreed code of practice for international transactions involving nuclear wastes based on, inter alia, a review of current national and international laws and regulations on waste disposal".
2. Last year, the General Conference, in resolution GC(XXXIII)/RES/509, expressed the hope that the Technical Working Group of Experts established by the Director General in response to the request made by the Conference in 1988 would "complete its task in time for submission of a draft Code of Practice on Radioactive Waste Transactions to the General Conference at its thirty-fourth (1990) regular session" and requested the Director General to report - through the Board of Governors - to the General Conference at its thirty-fourth regular session on the implementation of that resolution.
3. The Technical Working Group of Experts was composed of experts from 20 Member States and observers from five Member States and four international organizations.^{1/} It met twice - from 22 to 25 May 1989 and from 5 to 9 February 1990. It elected Mr. W.D. Smythe, Director General of Fuel Cycle and Materials Regulation, Atomic Energy Control Board, Canada, as its Chairman.
4. During its first meeting, the Group discussed the basic principles which might be included in a Code of Practice, defined what wastes should be subject

^{1/} See Annex 2 to this document.

to the Code and examined current national laws and regulations on waste disposal and relevant international instruments, including the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.

5. During its second meeting, the Group agreed on a text entitled "Code of Practice on the International Transboundary Movement of Radioactive Waste"^{2/} and recommended it for consideration and adoption by the Agency's Policy-making Organs.

6. The Code of Practice establishes a set of principles designed to serve as guidelines in ensuring the safety of international transboundary movements of radioactive waste. It provides that such movements should take place only when they are authorized by all States involved in the movement (that is, "with the prior notification and consent of the sending, receiving and transit States"), when all stages of the movement can be conducted in a manner consistent with international safety standards and when all States involved in the movement have the administrative and technical capacity and regulatory structure to fulfil their respective responsibilities for the movement in a manner consistent with international safety standards. The Code relies on existing relevant international standards and does not establish separate guidance in these areas.

7. On 14 June 1990 the Board of Governors requested the Director General to transmit the Code of Practice to the General Conference together with the summary records of the Board's discussions regarding the Code of Practice in February and June 1990.^{3/}

RECOMMENDED ACTION BY THE GENERAL CONFERENCE

8. It is recommended that the General Conference adopt the Code of Practice on the International Transboundary Movement of Radioactive Waste reproduced in Annex 1, ensure its wide dissemination and monitor its implementation.

^{2/} See Annex 1 to this document.

^{3/} These summary records will be issued as an Addendum to the present document.

A N N E X 1

CODE OF PRACTICE ON THE INTERNATIONAL TRANSBOUNDARY MOVEMENT
OF RADIOACTIVE WASTE

The Group of Experts,*

(i) Taking note that nuclear power generation and the utilization of radioisotopes involve the generation of radioactive waste,

(ii) Aware of the potential hazards for human health and the environment that could result from the improper management or disposal of radioactive waste,

(iii) Aware of public concern about any unauthorized international transboundary movement of radioactive waste, particularly to the territory of developing countries, and the danger of improper management and disposal of such waste,

(iv) Aware of the need to continue to promote high standards of radiation protection worldwide and to strengthen international co-operation, both multilateral and bilateral, in the field of nuclear safety and radioactive waste management,

(v) Emphasizing that such co-operation should take into account the needs of developing countries and may include the exchange of information, the transfer of technology and the provision of assistance,

(vi) Taking into account the IAEA's safety principles, which require, inter alia, that "policies and criteria for radiation protection of populations outside national borders from releases of radioactive substances should not be less stringent than those for the population within the country of release",^{1/}

* Group of Experts established pursuant to General Conference resolution GC(XXXII)/RES/490, "Dumping of Nuclear Wastes".

^{1/} Safety Principles and Technical Criteria for the Underground Disposal of High-level Radioactive Wastes, Safety Series 99, 1989.

(vii) Taking into account the IAEA safety standards and guidelines relevant to the international transboundary movement of radioactive waste, including standards and guidelines for radiological protection, the safe transport of radioactive material, the safe management and disposal of radioactive waste, the safety of nuclear facilities, and the physical protection of nuclear materials,

(viii) Recalling the Convention on Early Notification of a Nuclear Accident and the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency,

(ix) Mindful of the relevant principles and norms of international law,

(x) Taking into account the provisions of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal and other relevant international instruments, and

(xi) Recognizing the global role of the IAEA in the area of nuclear safety, radiation protection and radioactive waste management and disposal;

DECIDES that the following Code of Practice should serve as guidelines to States for, inter alia, the development and harmonization of policies and laws on the international transboundary movement of radioactive waste.*

*The Group of Experts held two meetings: 22-25 May 1989 and 5-9 February 1990. This Code of Practice was adopted by the Group on 9 February 1990.

I. SCOPE

This Code applies to the international transboundary movement of radioactive waste.

It relies on international standards for the safe transport of radioactive material and the physical protection of nuclear material, as well as the standards for basic nuclear safety and radiation protection and radioactive waste management; it does not establish separate guidance in these areas. Furthermore, this Code, which is advisory, does not affect in any way existing and future arrangements among States which relate to matters covered by it and are compatible with its objectives. ^{2/}

II. DEFINITIONS

For the purpose of this Code:

"radioactive waste" is any material that contains or is contaminated with radionuclides at concentrations or radioactivity levels greater than the "exempt quantities" ^{3/} established by the competent authorities and for which no use is foreseen. ^{4/}

"disposal" means the emplacement of waste in a repository, or at a given location, without the intention of retrieval.

"management" means all activities, administrative and operational, that are involved in the handling, treatment, conditioning, transportation and storage of waste.

"competent authority" means an authority designated or otherwise recognized by a government for specific purposes in connection with radiation protection and/or nuclear safety.

^{2/} Nothing in this Code prejudices or affects in any way the exercise by ships and aircraft of all States of maritime and air navigation rights and freedoms under customary international law, as reflected in the 1982 United Nations Convention on the Law of the Sea, and under other relevant international legal instruments.

^{3/} "Exempt quantities", in relation to radioactive waste, are levels of radionuclide concentration, surface contamination, radiation and/or total activity below which the competent authority decides to exempt from regulatory requirements because the individual and collective effective dose equivalents received from them are so low that such levels are not significant for purposes of radiation protection. Such exempt quantities should be agreed by the competent authorities in the countries concerned with the international transboundary radioactive waste movement.

^{4/} Spent fuel which is not intended for disposal is not considered to be radioactive waste.

III. BASIC PRINCIPLES

GENERAL

1. Every State should take the appropriate steps necessary to ensure that radioactive waste within its territory, or under its jurisdiction or control is safely managed and disposed of, to ensure the protection of human health and the environment.
2. Every State should take the appropriate steps necessary to minimize the amount of radioactive waste, taking into account social, environmental, technological and economic considerations.

INTERNATIONAL TRANSBOUNDARY MOVEMENT

3. It is the sovereign right of every State to prohibit the movement of radioactive waste into, from or through its territory.
4. Every State involved in the international transboundary movement of radioactive waste should take the appropriate steps necessary to ensure that such movement is undertaken in a manner consistent with international safety standards.
5. Every State should take the appropriate steps necessary to ensure that, subject to the relevant norms of international law, the international transboundary movement of radioactive waste takes place only with the prior notification and consent of the sending, receiving and transit States in accordance with their respective laws and regulations.

6. Every State involved in the international transboundary movement of radioactive waste should have a relevant regulatory authority and adopt appropriate procedures as necessary for the regulation of such movement.

7. No receiving State should permit the receipt of radioactive waste for management or disposal unless it has the administrative and technical capacity and regulatory structure to manage and dispose of such waste in a manner consistent with international safety standards. The sending State should satisfy itself in accordance with the receiving State's consent that the above requirement is met prior to the international transboundary movement of radioactive waste.

8. Every State should take the appropriate steps to introduce into its national laws and regulations relevant provisions as necessary for liability, compensation or other remedies for damage that could arise from the international transboundary movement of radioactive waste.

9. Every State should take the appropriate steps necessary, including the adoption of laws and regulations, to ensure that the international transboundary movement of radioactive waste is carried out in accordance with this Code.

INTERNATIONAL CO-OPERATION

10. The sending State should take the appropriate steps necessary to permit readmission into its territory of any radioactive waste previously transferred from its territory if such transfer is not or cannot be completed in conformity with this Code, unless an alternative safe arrangement can be made.^{5/}

^{5/} The above would not apply to waste which is associated with, or results from, a service provided by the sending State to the receiving State and which is subject to a contractual arrangement between them that such waste be returned to the receiving State.

11. States should co-operate at the bilateral, regional and international levels for the purpose of preventing any international transboundary movement of radioactive waste that is not in conformity with this Code.

IV. ROLE OF THE IAEA

The IAEA should continue to collect and disseminate information on the laws, regulations and technical standards pertaining to radioactive waste management and disposal, develop relevant technical standards and provide advice and assistance on all aspects of radioactive waste management and disposal, having particular regard to the needs of developing countries.

The IAEA should review this Code as appropriate, taking into account experience gained and technological developments.

ANNEX 2

LIST OF PARTICIPANTS

Expert Group on a Code of Practice
for International Radioactive Waste Transactions

First Meeting: 22-25 May 1989

IAEA Headquarters

Department of Administration
Legal Division

Department of Nuclear Energy and Safety
Division of Nuclear Fuel Cycle

PARTICIPANTS

ARGENTINA

Dr. Jorge Martínez Favini
Head, Juridical Affairs
Comisión Nacional de
Energía Atómica

AUSTRALIA

Mr. G. Mark L. Harrison
First Secretary
Permanent Mission of Australia to the IAEA

BELGIUM

Mr. Robert Leclere
Engineer
Service de Protection contre
les radiations ionisantes
Ministère de la Santé Publique et
l'Environnement

CANADA

Mr. W.D. Smythe
Director General of Fuel Cycle
and Materials Regulation
Atomic Energy Control Board

CUBA

Mr. Fernando Guzman Martínez
Second Secretary
Permanent Mission of Cuba to the IAEA

PARTICIPANTS

CZECHOSLOVAKIA

Mr. Miroslav Kajnak
Third Secretary
Permanent Mission of Czechoslovakia
to the IAEA

EGYPT

H.E. Dr. Sayed Anwar Abou Ali
Deputy Director, International
Organizations Dept.
Foreign Office, Cairo

Dr. Aly Fahmy El Saiedi
Executive Chairman,
Nuclear Power Plants Authority

FRANCE

Mr. Bernard de Nercy
Directeur, Chargé du
Département des Affaires
Juridiques
C.E.A.

GERMAN DEMOCRATIC REPUBLIC

Mr. D. Richter
Staatliches Amt für Atomsicherheit
und Strahlenschutz

INDIA

Mr. M.S. Kumra
Head of Waste Management
Division
BHABHA Atomic Research Centre

INDONESIA

Mr. Soeroto Ronodirdjo
Head, Radioactive Waste
Processing Facility
National Atomic Energy Agency (BATAN)

IRAQ

Mr. Suror M. Mahmoud
Scientific Counsellor
Permanent Mission of Iraq to the IAEA

JAPAN

Mr. Kenkichi Hirose
Director, Radioactive Waste
Management Office
Atomic Energy Bureau, STA

PARTICIPANTS

(JAPAN cont.)

Mr. Hiroshi Katagiri
General Manager
Radiation Control Division I
Department of Health Physics
(JAERI)

Mr. Katsuaki Shibata
Deputy Director
Nuclear Energy Industry Division
Ministry of International Trade
and Industry

MEXICO

Mr. Jorge Vallejo Luna
Engineer, Director del
Area Nuclear
Dirección General de
Investigación y Desarrollo
Secretaría de Energía, Minas e Industria
Paraestatal (SEMLP)

NIGERIA

Dr. Benson N.C. Agu
Former Director SGOB
Nigerian Government Delegate

USSR

Mr. Y.V. Kuznetsov
V.G. Khlopin Radium Institute
Leningrad

UNITED KINGDOM

Dr. A.G. Duncan
H.M. Inspectorate of Pollution

UNITED STATES

Mr. Frederick McGoldrick
Counsellor for Nuclear Policy
Permanent Mission of the United States
to the IAEA

Ms. Joanna Becker
Office of the General Counsel
Nuclear Regulatory Commission

Ms. Barbara H. Thomas
IAEA Programs
International Affairs
Department of Energy

PARTICIPANTS

UNITED STATES (cont.)

Mr. Marvin R. Peterson
Office of International
Programs
Nuclear Regulatory Commission

Mr. Regis Boyle
Office of Nuclear Material,
Safety and Safeguards
Nuclear Regulatory Commission

ZAIRE

Mr. Kondi Tamba
Chef du Departement de
Radioprotection
Commissariat General a l'Energie

OBSERVERS

FEDERAL REPUBLIC OF GERMANY

Mr. H.G. Mielke
Federal Ministry for the Environment,
Conservation and Nuclear Safety

COMMISSION OF THE
EUROPEAN COMMUNITIES

Mr. V. Ciani
Principal Administrator
Directorate-General Environ-
ment, Consumer Protection
& Nuclear Safety

INTERNATIONAL MARITIME
ORGANIZATION (IMO)

Mr. C. Zimmerli
Senior Deputy Director
Head, Legal Office
Legal Affairs and
External Relations Division

Mr. M. Nauke
Chief,
Office for the London
Dumping Convention
Marine Environment Division

ORGANISATION FOR ECONOMIC
CO-OPERATION & DEVELOPMENT

Mr. Patrick Reyners
Head of Legal Affairs

LIST OF PARTICIPANTS

Expert Group on a Code of Practice
on Transboundary Movements of Radioactive Wastes

Second Meeting: 5-9 February 1990

IAEA Headquarters

Department of Administration
Legal Division

Department of Nuclear Energy and Safety
Division of Nuclear Fuel Cycle

PARTICIPANTS

ARGENTINA

Dr. Jorge Martinez Favini
Legal Adviser
Comisión Nacional de
Energía Atómica

AUSTRALIA

Mr. G. Hogg
Counsellor, Atomic Energy
Permanent Mission of Australia to the IAEA

BELGIUM

Mrs. G. Rosemont
Inspector
Service de Protection contre
les radiations ionisantes
Ministère de la Santé publique et de
l'Environnement

CANADA

Mr. W. David Smythe
Special Adviser to
the President,
Atomic Energy Control Board

Mr. Don Waterfall
Counsellor
Permanent Mission of Canada to the IAEA

PARTICIPANTS

CHINA

Prof. Ma Mingxie
Bureau of Safety, Protection & Health

CUBA

Mr. José Rodolfo Quevedo Garcia
Head of the Dept. of Radiological
Protection of the Centre of Pro-
tection and Hygiene of Radiations

Mr. Fernando Guzman Martinez
Second Secretary
Permanent Mission of Cuba to the IAEA

EGYPT

H.E. Dr. Sayed Anwar Abou Ali
Ambassador to Nepal

Dr. Aly Fahmy El Saiedi
Executive Chairman
Nuclear Power Plants Authority

FRANCE

Mr. Bernard de Nercy
Directeur Adjoint, Chargé du
Département des Affaires
Juridiques
C.E.A.

GERMAN DEMOCRATIC REPUBLIC

Mr. D. Richter
Staatliches Amt für Atomsicherheit
und Strahlenschutz

INDIA

Mr. S.D. Mishra
Head, High Level Waste
Management Section
BHABHA Atomic Research Centre

INDONESIA

Mr. Soeroto Ronodirdjo
Director, Centre of
Radioactive Waste Management Technology
National Atomic Energy Agency (BATAN)

IRAQ

Mr. A. Mohammad Al-Matooq
Scientific Counsellor
Permanent Mission of Iraq to the IAEA

PARTICIPANTS

JAPAN

Mr. Nobuaki Kawakami
Deputy Director
Office of Radioactive Waste
Regulation
Nuclear Safety Bureau
Science and Technology Agency (STA)

Mr. Hiroshi Katagiri
General Manager
Radiation Control Division II
Department of Health Physics
(JAERI)

MEXICO

Mr. Mardonio Jiménez Rojas
Engineer, Director of
the Nuclear Division
Dirección General de
Investigación y Desarrollo
Secretaría de Energía, Minas e Industria
Paraestatal (SEMIP)

NIGERIA

Dr. Benson N.C. Agu
Special Assistant to Minister
for Science and Technology
Ministry for Science and Technology

SWEDEN

Mr. Ingvar Persson
Deputy Assistant
Under Secretary
Ministry of Environment and Energy

Mr. Kent Jönsson
Ministry of Environment and Energy

Mr. Bengt G. Pettersson
Swedish Nuclear Power Inspectorate

UNION OF SOVIET SOC. REPUBLICS

Mr. Y.V. Kuznetsov
V.G. Khlopin Radium Institute
Leningrad

UNITED KINGDOM

Dr. A.G. Duncan
H.M. Inspectorate of Pollution

PARTICIPANTS

UNITED STATES

Mr. Frederick McGoldrick
Counsellor for Nuclear
Policy
Permanent Mission of the United States
to the IAEA

Ms. Carol Schwab
Office of Legal Advisor
Department of State

Mr. Regis Boyle
Office of Nuclear Material
and Safeguards
National Regulatory Commission

Ms. Janet Gorn
International Programs

Ms. Joanna Becker
Office of the General Counsel

Ms. Barbara Thomas
Office of International Affairs/
Nuclear Non-Proliferation Policy
Department of Energy

ZAIRE

Mr. Kondi Tamba
Chef du Departement de
Radioprotection
Commissariat General a l'Energie atomique

OBSERVERS

AUSTRIA

Ms. Ursula Pfann
Alternate to the
Permanent Representative
Federal Ministry of Foreign Affairs

CZECHOSLOVAKIA

Mr. Jozef Martonak
Second Secretary
Permanent Mission of the Czechoslovak
Socialist Republic to the IAEA

Mr. Miroslav Kajnak
Third Secretary
Permanent Mission of the Czechoslovak
Socialist Republic to the IAEA

OBSERVERS

FEDERAL REPUBLIC OF GERMANY

Mr. H.G. Mielke
Gesellschaft für Reaktorsicherheit

NETHERLANDS

Mr. P. de Klerk
Alternate Resident
Representative
Permanent Mission of the Netherlands
to the IAEA

SWITZERLAND

Mr. B. Wieland
Office fédéral de l'énergie

COMMISSION OF THE
EUROPEAN COMMUNITIES

Mr. V. Ciani
Principal Administrator
Directorate-General Environ-
ment, Consumer Protection
& Nuclear Safety

Mr. S. Orłowski
Head, Nuclear Fuel Cycle
Division
Directorate-General for
Science, Research and
Development
Joint Research Centre

INTERNATIONAL MARITIME
ORGANIZATION (IMO)

Mr. M. Nauke
Chief of the Office for
the London Dumping Convention
Marine Environment Division

ORGANISATION FOR ECONOMIC
CO-OPERATION & DEVELOPMENT

Mr. Patrick Reyners
Head of Legal Affairs

UNEP

Mr. A. Fathalla
ISBC, Geneva

