



International Atomic Energy Agency

GENERAL CONFERENCE

GC

GC(XXXIV)/920
27 June 1990

GENERAL Distr.
Original: ENGLISH

Thirty-fourth regular session
Sub-item 10(c) of the provisional agenda
(GC(XXXIV)/914)

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

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First Meeting: 22-25 May 1989

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Department of Nuclear Energy and Safety
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Second Meeting: 5-9 February 1990

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