



Decision of the Council
establishing a Multilateral
Consultation and Surveillance
Mechanism for Sea Dumping of
Radioactive Waste

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Background Information

The Decision Establishing a Multilateral Consultation and Surveillance Mechanism for the Sea Dumping of Radioactive Waste was adopted by the OECD Council on 22 July 1977 on proposal of the Steering Committee for Nuclear Energy. The Multilateral Consultation and Surveillance Mechanism for Sea Dumping of Radioactive Waste established by the Decision encouraged international and regional cooperation in the development of procedures for its effective application and the promotion, within appropriate international bodies, of measures to protect the marine environment against pollution caused by radioactive pollutants from all sources. The mechanism set out several obligations for Adherents to avoid sea dumping of radioactive waste. The Decision was abrogated on 8 March 1996 as the decision taken by the London Convention Parties, on 12th November 1993, to forbid the disposal of radioactive wastes into the sea, with the unanimous consent of all the OECD Members, voided the NEA Multilateral Mechanism of its content and purpose.

THE COUNCIL¹,

HAVING REGARD to Articles 5 a), 6 and 20 of the Convention on the Organisation for Economic Co-operation and Development (hereinafter referred to as the "Organisation") of 14th December 1960;

HAVING REGARD to the Decision of the OEEC Council of 20th December 1957 approved by the Council of the Organisation on 30th September 1961 as amended [C(57)255; OECD/C(61)5; C(72)106(Final); C(75)68(Final); C(76)172(Final)], relating to the Statute of the OECD Nuclear Energy Agency (hereinafter referred to as "NEA");

HAVING REGARD to the entry into force of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (hereinafter referred to as the "London Convention") to which a number of Member countries are already party or intend to become party;

TAKING ACCOUNT of the responsibilities entrusted to the International Atomic Energy Agency (hereinafter referred to as "IAEA") under the London Convention with respect to radioactive waste and other radioactive matter and to the provisional Definition and Recommendations established by IAEA thereunder and as may be revised from time to time (hereinafter referred to as "the IAEA Definition and Recommendations");

HAVING REGARD to the Agreement of 30th September 1960 between the Organisation and IAEA providing for close cooperation and consultation between NEA and IAEA in regard to matters of common interest with a view to harmonizing their efforts as far as is appropriate in the light of their respective responsibilities;

CONSIDERING that the London Convention encourages international and regional cooperation in the development of procedures for its effective application and the promotion, within appropriate international bodies, of measures to protect the marine environment against pollution caused by radioactive pollutants from all sources;

CONSIDERING that the Member countries are desirous of pursuing the objectives of the London Convention and of maintaining and strengthening the cooperation already established within NEA for the purpose of protecting the marine environment and public health in relation to sea dumping of radioactive waste, through the setting up of a multilateral consultation and surveillance mechanism;

CONSIDERING that the purpose of the present Decision is consistent with the objectives of the London Convention and the IAEA Definition and Recommendations, that several Member countries object in principle to sea dumping operations, and that nothing in this Decision shall be interpreted as encouraging the sea dumping of radioactive waste;

HAVING REGARD to the Report by the Secretary-General on the recommendation by the Steering Committee for Nuclear Energy of 29th April 1977 concerning the establishment of a multilateral consultation and surveillance mechanism for sea dumping of radioactive waste [C(77)115];

DECIDES:**ARTICLE 1**

- a) The purpose of the present Decision is to set up within NEA a multilateral consultation and surveillance mechanism for sea dumping of radioactive waste, in order to further the objectives of the London Convention.
- b) The Member countries which take part in the present Decision are hereinafter referred to as "Participating Countries".

ARTICLE 2

- a) Without prejudice to the responsibilities of IAEA under the London Convention, NEA shall, in consultation with the Environment Committee with respect to all environmental policy aspects:
- i) establish and keep under review, in the light of the experience gained, standards, guidelines, recommended practices and procedures for the safe dumping of radioactive waste at sea, in particular;
 - guidelines for the identification of suitable dumping sites, taking account of Annex III.B to the London Convention and of the IAEA Definition and Recommendations;
 - its Guidelines for Sea Disposal Packages of Radioactive Waste with special attention to improvements intended to facilitate their proper application;
 - operating procedures, including those relating to the preparation of material to be dumped, and criteria for the suitability of ships, with special attention to improvements intended to facilitate their proper application;
 - ii) assess and keep under review studies made of the environmental, ecological and radiological protection aspects of sea dumping of radioactive waste;
 - iii) assess the suitability of sites proposed by national authorities and keep under review those previously considered suitable for dumping radioactive waste; such a review should take place no later than five years after the relevant assessment or the previous review and shall include the results of appropriate monitoring.
- b) Participating Countries carrying out a radioactive waste sea dumping operation, either individually or collectively, undertake to apply, taking into account the provisions of the London Convention and the IAEA Definition and Recommendations, the standards, guidelines, recommended practices and procedures adopted within the Organisation, in force at the time of the operation.

ARTICLE 3

- a) Participating Countries shall notify NEA of the legal and administrative measures which they have taken for applying, as appropriate, the London Convention, the IAEA Definition and Recommendations and the NEA standards, guidelines, recommended practices and procedures.
- b) Participating Countries shall notify NEA as soon as they have determined to carry out, either individually or collectively, a radioactive waste sea dumping operation, and in any case no later than six months before the operation is scheduled to take place. If a new dumping site is proposed, notification thereof shall be given no later than twelve months before the operation is scheduled to take place. Notification of an operation shall include the following:
- i) the characteristics and composition of the wastes, including estimates of the quantities, types of nuclides and activities, in accordance with Annex III.A to the London Convention;
 - ii) the dumping site selected;
 - iii) reasons for the selection of the site, including an environmental and ecological assessment in accordance with the IAEA Definition and Recommendations or a reference to the relevant assessment;
 - iv) the operational procedures envisaged, including measures to be taken in the event of incidents such as the release of radioactive material from the containers.

- c) In addition to the notifications made pursuant to paragraph b) of this Article, the Participating Country or Countries intending to carry out an operation shall, no later than three months before the operation is scheduled to take place, provide NEA with:
 - i) the number and specifications of the containers to be used and a statement that the containers as a minimum conform to the current NEA guidelines;
 - ii) a description of the relevant characteristics of the ship proposed to be used for the operation, together with a statement that as a minimum it meets the requirements of the IAEA Definition and Recommendations and any NEA criteria for the suitability of ships;
 - iii) the name, qualifications and other relevant particulars of the Escorting Officer to be appointed in accordance with Article 5 a) below, or a request to NEA to propose an Escorting Officer; and,
 - iv) any other relevant information such as the timetable envisaged, etc.
- d) All information referred to in paragraphs b) and c) of this Article shall be supplied as soon as it is available and must be sufficient to enable the consultation provided for by Article 4 below to take place.
- e) The Participating Country or Countries carrying out an operation shall provide NEA with a certificate that the materials to be dumped have been prepared in accordance with NEA standards, guidelines, recommended practices and procedures, as soon as such preparations are completed.

ARTICLE 4

- a) Upon receipt of the notification referred to in Article 3 above, the NEA Secretariat shall circulate the information so provided to all Participating Countries, together with comments and observations relating a proposed radioactive waste sea dumping operation to the provisions of the London Convention, the IAEA Definition and Recommendations and NEA standards, guidelines, recommended practices and, procedures.
- b) In accordance with arrangements to be determined by the Steering Committee for Nuclear Energy, the NEA Secretariat may, on its own initiative, or shall, upon request by any Participating Country, seek the advice on the proposed operation, as appropriate:
 - i) of the competent Committee of NEA, or
 - ii) as regards environmental and ecological assessments, in consultation with the Environment Directorate, of an ad hoc international group of specialists in these fields, or
 - iii) of an ad hoc international group of specialists on other aspects of the operation.

This procedure shall be initiated in sufficient time to enable the advice to be formulated no later than two months before the operation is scheduled to take place.

- c) Such advice shall be sought in the event that:
 - i) a new site is proposed or the proposed site is not or is no longer considered suitable by NEA;
 - ii) it is planned to use new waste conditioning methods or types of containers not previously recognised by NEA as suitable for sea dumping;

- iii) it is planned to use a ship having characteristics not previously recognised by NEA as suitable for sea dumping and of relevance to the safety of the operation;

or in such other cases as may be determined by the Steering Committee for Nuclear Energy in the light of the experience gained.

- d) The NEA Secretariat shall inform all Participating Countries of the advice obtained in accordance with paragraphs b) and c) of this Article.
- e) The Participating Country or Countries intending to carry out the operation shall take account of any advice obtained in accordance with this Article and shall inform NEA of the decision taken, giving the reasons therefore, which shall be reported accordingly to the Steering Committee for Nuclear Energy.
- f) Following completion of the procedure laid down in this Article, the Participating Country or Countries intending to carry out the operation shall inform NEA of the final conditions adopted.

ARTICLE 5

- a) The competent authorities of the Participating Country or Countries carrying out a radioactive waste sea dumping operation shall appoint an Escorting Officer or Escorting Officers to supervise the operation. At the request of these authorities, NEA may provide assistance by proposing qualified candidates to perform the functions of Escorting Officers.
- b) Escorting Officers shall have the duties and responsibilities, powers and qualifications specified in the IAEA Definition and Recommendations and in relevant NEA guidelines and recommended practices and procedures.

ARTICLE 6

- a) For each radioactive waste sea dumping operation carried out by one or more Participating Countries, the Director General of NEA shall appoint a Representative and shall inform such Participating Country or Countries of his name, qualifications, nationality and other relevant particulars. The NEA Representative shall act in accordance with the instructions of the Director General of NEA and shall report to him.
- b) The NEA Representative shall have the duty and right to verify insofar as reasonably practicable by visual inspection and by the use of the instruments required for a proper radiological control of the operation, that the latter is being carried out in accordance with the final conditions adopted in pursuance of the present Decision and, in particular, that the materials to be dumped are in conformity with the certificate provided pursuant to paragraph e) of Article 3 above. For this purpose he shall have the right to require that all necessary information is provided by the Escorting Officer or Officers, and may make suggestions and representations as to the conduct of the operation. The verification by the NEA Representative shall begin when the materials to be dumped arrive at the dockside and shall end when the contamination clearance certificate for the ship has been issued.
- c) In case of inability of the NEA Representative to fulfil the functions described in paragraph b) of this Article, the Director General of NEA shall be informed immediately and shall consult the competent national authority or authorities as appropriate.
- d) In the event of the NEA Representative making suggestions or representations to the Escorting Officer or Officers in respect of the conduct of the operation, the NEA Representative and the Escorting Officer or Officers shall seek to reach agreement as to the action to be taken.

- e) In case of disagreement between the NEA Representative and the Escorting Officer or Officers on the action to be taken in regard to the following matters:
- the ship not appearing to be in the designated area,
 - containers not appearing to be in conformity with the approved specifications,
 - no adequate observation of the dumping being possible,
 - occurrence of significant radiation hazard to the crew or significant contamination of the ship,

or to any other significant matter which has been determined in advance by the Steering Committee for Nuclear Energy in the light of the experience gained, the Escorting Officer or Officers shall immediately suspend the operation or particular action in question and report to the competent national authority or authorities and the NEA Representative shall report immediately to the Director General of NEA. The competent national authority or authorities and the Director General of NEA shall consult together with a view to finding a mutually acceptable solution. If no mutually acceptable solution is found and the competent national authority or authorities decide to authorise continuation of the operation or particular action in question, the circumstances shall be reported by the NEA Secretariat to the Steering Committee for Nuclear Energy, at the earliest convenient opportunity.

ARTICLE 7

- a) In conformity with the IAEA Definition and Recommendations, the NEA Secretariat shall maintain records of the nature and quantities of all wastes dumped during radioactive waste sea dumping operations carried out in accordance with the present Decision and of the location, time and method of the dumping.
- b) The NEA Secretariat shall provide reports regularly on all operations to the Steering Committee for Nuclear Energy and to the Environment Committee.
- c) With the approval of the Participating Country or Countries having carried out an operation NEA shall report to the Inter-Governmental Maritime Consultative Organisation the information recorded pursuant to paragraph a) of this Article.

ARTICLE 8

The Organisation and its officials shall, to the extent provided for in Article 19 of the Convention on the OECD and in Supplementary Protocol No. 2 to the Convention, be immune from every form of legal process in respect of any action or claim arising out of an operation of sea dumping of radioactive waste carried out by one or more Participating Countries in accordance with the provisions of this Decision. Each such Participating Country shall ensure that any protection against third party liability in respect of nuclear damage including any insurance or other financial security which may be available under its laws or regulations shall apply to the Organisation and its officials, in respect of any claim or action arising out of such operations of sea dumping of radioactive waste, in the same way as that protection applies to nationals of that Participating Country.

ARTICLE 9

No expenditure other than the cost of providing the necessary Secretariat support and the NEA Representative shall be borne by the budget of the Organisation.

ARTICLE 10

- a) The present Decision shall apply as from 22nd July 1977 to all Member countries taking part in this Decision.

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- b) Other Member countries may subsequently take part in the present Decision by notification to the Secretary-General of the Organisation to that effect and this Decision shall apply to them as from the date of receipt of such notification.
 - c) Any Participating Country may terminate the application of the present Decision to itself by giving six months' notice to that effect to the Secretary-General.

Appendix

Interpretations concerning the Decision of the Council Establishing a Multilateral Consultation and Surveillance Mechanism for Sea Dumping of Radioactive Waste

Article 2

The consultation with the Environment Committee will relate to all environmental policy aspects in the broadest sense as distinct from purely operational matters.

The requirement to review the suitability of dumping sites after five years was inserted in Article 2 a) iii), on the understanding that this would not necessarily imply conducting a full scale review (i.e. including a complete environmental impact statement) every five years. It was further agreed that this review should include results of appropriate monitoring undertaken in dumping sites. While it was pointed out that in the present state of technology monitoring was not likely to yield significant results, several Delegations were in favour of considering its feasibility. It was agreed that this question will remain under review by NEA.

Regarding Article 2 b), it was understood that the obligation to apply standards, etc., does not prevent a Participating Country from applying, in its own respect, more stringent rules or from advising that more stringent rules should apply. This interpretation is in accordance with the spirit of the London Convention.

Article 3

The list of items to be notified according to Article 3 b) do not derogate from Annex III C.4 of the London Convention which requires Contracting Parties to consider in establishing criteria governing the issue of permits for the dumping of matter at sea inter alia, "the practical availability of alternative land-based methods of treatment disposal or elimination, or of treatment to render the matter less harmful for dumping at sea".

Article 4

In connection with the advice of an ad hoc international group of specialists on environmental and ecological assessments, in consultation with the Environment Directorate, provided for in Article 4 b) ii), it will be for the Environment Directorate to consult, if necessary, the Chairman of the Environment Committee or the Committee itself.

Article 6

In relation to Article 6 a), several Delegations suggested that, in selecting the NEA Representative, the Director General should give due consideration to the special interest of the coastal countries concerned by the operation; and others expressed the wish that the NEA Representative should not be a national of dumping countries. The following interpretation by the Secretariat was noted:

The Director General would establish and maintain a list of qualified experts proposed by all interested Participating Countries. It would then be his responsibility to select from this list an NEA Representative, for each operation, taking into account the desirability of a certain rotation amongst nationalities, and the special interest of the coastal countries concerned by the operation. According to normal international practice, the Representative would not be a national of the country(ies) actually carrying out an operation; however, it could not be excluded that he would be a national of a country which has in the past undertaken such operations. As only one Representative would serve for each operation, the interest of coastal countries could only be taken into account to the extent that this would not impede suitable rotation of nationalities. Furthermore, the NEA Representative would act as an international official reporting only to the Director General and would not be in charge of the interest of a given country.

As regards Article 6 b), it was agreed that its wording represented a compromise between the requirement of verification and what is achievable in practice, taking into account the limited

resources available at international level, and that NEA would, in due course, establish guidelines for such verification in accordance with Article 2 a) i).

¹ The Representative for Australia, Austria and New Zealand abstained.

Acceptance of this Decision by Germany is contingent upon the requirements of its constitutional procedure or of other internal administrative provisions.

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