ENVIRONMENT PROTECTION (SEA DUMPING) AMENDMENT BILL 1986

Date introduced: 27 May 1986
House: House of Representatives
Presented by: Hon. Gordon Scholes, M.P., Minister for Territories

DIGEST OF BILL

Purpose

To prohibit the dumping or incineration of radioactive material at sea.

Background

The dumping of radioactive material in Australian waters is governed by the Environment Protection (Sea Dumping) Act 1981 (the Principal Act) which adopts the Convention on the Prevention of Marine Pollution by the Dumping of Wastes and Other Matter (the London Convention). The London Convention prohibits the dumping of high level radioactive material while allowing lower level material to be dumped (Article IV). The International Atomic Energy Agency is designated in the London Convention as the body to define high level radioactive material and to provide recommendations to be taken into account for the dumping of other radioactive material. Australia is also a party to the South Pacific Nuclear Free Zone Treaty which prohibits the dumping of radioactive material in the South Pacific area.

The United States of America commenced dumping low and intermediate level radioactive material in the Pacific and Atlantic Oceans in 1946. This program stopped in 1970 and later tests revealed that a number of containers had ruptured and radioactive material had leaked into the environment. The United Kingdom commenced dumping radioactive material in the Atlantic Ocean in 1949. Since 1967 other European nations have joined the United Kingdom in dumping radioactive material in the Atlantic. From 1967 to 1982 these nations continued to dump radioactive material at a site in the north-east Atlantic, approximately 700
kilometres from the Irish coast. The dumpings were carried out under the supervision of the European Nuclear Energy Agency (now the OECD Nuclear Energy Agency) and from 1977 the dumpings conformed to the requirements of the London Convention. Action by the British Seamen's Union prevented any dumping in 1983 and, following a Spanish proposal, a majority of members of the London Convention voted for a two year moratorium on the dumping of radioactive material to enable further reviews of the question. At a meeting of the London Convention in September 1985 there continued to be a split between those countries calling for an absolute ban on the dumping of radioactive material at sea and those which favoured sea dumping. The matter was resolved by a resolution to extend the present moratorium on such dumping while further scientific and other studies are carried out.

In 1979 Japan announced plans to begin dumping low level radioactive material in the North Pacific from 1981. Pressure from Pacific nations and the changing international situation led to the postponement of the plan. As Japan's nuclear energy program expands and produces an ever-increasing stockpile of nuclear waste, the South Pacific States have expressed fresh fears of the dumping of Japanese nuclear waste into the Pacific. In January 1985 the Prime Minister of Japan gave the Prime Minister of Australia his assurance that Japan would not proceed with its proposed dumping of low-grade nuclear waste in the South Pacific as long as there was opposition from nations in the area.

The storage and disposal of radioactive material in Australia is principally a State function. Generally the waste is very low level and stored by the users, though some disposal into sewers is often allowed. In New South Wales, for example, hospitals and the Australian Atomic Energy Commission are allowed to discharge some low level waste into sewers. A Commonwealth-State Consultative Committee was established to review waste management in Australia. In its report The Management of Radioactive Wastes Arising from the Medical, Industrial and Research Use of Radionuclides, issued on 21 May 1985, the Committee recommended that regulated user disposal, including disposal in sewers, be continued.[1]

Main Provisions

The long title of the Principal Act will be amended by clause 2 so that amongst the objects of the Act will be the prohibition of the dumping into the sea, and the incineration at sea, of radioactive material.
Radioactive material will be defined as material that has an activity of more than 35 becquerels per gram (clause 3 which will amend section 4 of the Principal Act).

The Minister will be given a discretion as to whether to declare that the Principal Act does not apply to coastal waters of a State or Territory, where it appears that the State or Territory laws already give effect to the London Convention in those areas (sub-clause 4(a) which will amend sub-section 9(1) of the Principal Act). Where the Minister makes such a declaration the application of the prohibition on sea dumping of radioactive material will not be affected (sub-clause 4(b) which will amend sub-section 9(1) of the Principal Act).

Clause 5 will insert proposed section 9A, 9B, 9C and 9D into the Principal Act. It will be an offence to

- dump radioactive material into the sea (proposed section 9A);
- load a vessel or aircraft with radioactive material for the purpose of dumping it at sea (proposed section 9B); and
- incinerate radioactive material on Australian vessels or platforms at sea or on a foreign vessel in Australian waters (proposed section 9C).

In each instance the owner of the material and owner or person in charge of the vessel, aircraft or platform involved will be guilty of an offence and liable to a fine of $50 000 (in the case of a company a $100 000 fine) (proposed section 9D).

Clauses 6, 7 and 8 will amend sections 10, 12 and 14 of the Principal Act respectively by making those sections apply only to non-radioactive material.

The defences available under the Principal Act will also be available when the offence involves radioactive material (clause 9 which will amend section 15 of the Principal Act). Similarly, liability to the Commonwealth for expenses incurred for repairing any damage arising out of the commission of the offence will be extended to include the offences involving radioactive waste (clause 10 which will amend section 17 of the Principal Act).
No permits will be granted for the dumping of radioactive material at sea and permits granted for the dumping of other material will only be granted after consideration is given to Australia's treaty obligations (clause 11 which will amend section 19 of the Principal Act).

The injunctive relief available to restrain a person from dumping, loading or incinerating certain material at sea will also be available where radioactive material is involved (clause 13 which will amend section 33 of the Principal Act). Similarly, section 37 of the Principal Act provides that the offences in the Act are indictable offences which may be dealt with summarily; clause 14 will extend this section to include offences involving radioactive material.

This Bill forms part of a legislative package comprising:

Nuclear Non-Proliferation (Safeguards) Bill 1986
(Digest 86/94)
South Pacific Nuclear Free Zone Treaty Bill 1986
(Digest 86/95)
Environment Protection (Sea Dumping) Amendment Bill 1986 (Digest 86/90)

For further information, if required, contact the Science, Technology and Economics Group.
Reference