

On **return shipment to Australia** issue, I don't think substitution makes any difference – the substituted material seems to be treated in the same way as the original under Euratom law. The current law (the Transfrontier Shipment Regulations 2008, which are UK-wide) requires SEPA as competent authority to authorise the shipment, acting in accordance with Article 15 of the Euratom Shipments Directive 2006/117/Euratom, i.e. obtaining consents from the country of destination and any countries of transit. By Article 16 it must not allow shipment unless it is satisfied that Australia has the administrative and technical capacity to manage the waste safely, taking due account of any relevant information from other member states and the criteria established by the Commission.

These criteria are in Commission Recommendation 2008/956/Euratom and broadly include compliance with IAEA requirements, the existence of relevant safety and liability regimes, etc. However, it is expressly stated that other considerations, for example ethical, social and political may be taken into account in deciding whether to authorise shipment (Article 2(3)).

These requirements, as they are already in place, will become part of UK law under the Withdrawal Act when in force and will have to continue to be complied with.

In addition, SEPA will have to comply with the Directive on a Community Framework for management of spent fuel and radioactive waste 2011/70/Euratom. It will have to take reasonable measures to be assured that Australia has management and disposal programmes with objectives representing a high level of safety equivalent to those established by the Directive and that the disposal facility in Australia is authorised, operating, and managed in accordance with Australian law.

Regulation 7 of the UK regulations prohibits export to a third country that does not have the administrative and technical capacity and regulatory structure to manage the radioactive waste or spent fuel safely, as stated in the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management.

The upshot seems therefore to be that SEPA must refuse authorisation if there are safety issues, or if there is doubt that the disposal facility complies with Australian law. It may also however refuse authorisation on social, ethical, human rights grounds. Whether it does so is a matter for SEPA, or for Scottish Ministers if there is an appeal against its decision. I have not looked into it fully at this point, but arguably it might be said that SEPA is obliged to address human rights issues under the Human Rights Act 1998 if the rights of indigenous peoples are being infringed, even outside Scotland.