



HM Government

Nuclear materials and safeguards issues

POSITION PAPER

Position Paper by the United Kingdom

Nuclear materials and safeguards issues

This paper outlines the United Kingdom's (UK) position on the ownership and responsibility for special fissile material and related safeguards equipment.

Introduction

1. The Treaty establishing the European Atomic Energy Community (Euratom) provides the basis for the UK's cooperation with the Euratom Community on civil nuclear issues. It includes the provision of safeguards arrangements for non-proliferation of nuclear materials, cooperation in nuclear research and development, mobility of workers and trade in the nuclear sector and wider nuclear regulatory cooperation.
2. The UK invoked Article 106(a) of the Treaty establishing Euratom at the same time as Article 50 of the Treaty on European Union (TEU). As the European Commission has stated in its recommendation for a European Council decision authorising the Commission to open negotiations with the UK on an agreement on its withdrawal from the European Union (EU): "It is recalled that in accordance with Article 106(a) of the Treaty establishing the European Atomic Energy Community, Article 50 of the Treaty on European Union applies also to the European Atomic Energy Community". This reflects the fact that the Treaties of the EU and Euratom are uniquely legally joined.
3. The UK is a leader in nuclear safety and has a proven track record as a responsible Nuclear Weapons State, dedicated to ensuring the non-proliferation of nuclear materials. As part of this, it has been a strong and active member of the International Atomic Energy Agency (IAEA) since 1957. It enjoys a wide-ranging and successful partnership with the EU in the civil nuclear sector, which is rooted in a strong and mutually beneficial trade relationship. Its world-class expertise in nuclear research and development has put it at the heart of wider EU collaboration to develop the clean energy of the future.
4. The unique and important nature of the civil nuclear sector means that there is strong mutual interest in ensuring that the UK and Euratom Community continue to work closely together in the future. The UK's ambition is to maintain a close and effective relationship with the Euratom Community and the rest of the world that harnesses the UK's and the Euratom Community's expertise and maximises shared interests.

High-level principles

5. In order to achieve this vision, the UK proposes to work with the Euratom Community according to the following principles:
 - ensuring a smooth transition to a UK nuclear safeguards regime with no interruption in safeguards arrangements;
 - providing certainty and clarity to industry and others wherever possible;

- collaborating on nuclear research and development in order to maximise the benefit of shared expertise and resources;
- minimising barriers to civil nuclear trade for industry in the UK, Euratom and third countries;
- ensuring mobility of skilled nuclear workers and researchers; and
- collaborating on areas of wider interest, including regulatory cooperation and emergency preparedness.

Initial issues for discussion

6. As part of the UK's orderly withdrawal, and to provide certainty to industry and reassurance to all, it is important to work through the following issues in the initial phases of discussion:
 - nuclear safeguards arrangements; and
 - provision of legal certainty on immediate issues related to nuclear material in both the UK and Euratom.
7. These issues are set out in further detail below. The UK looks forward to addressing further issues as a priority in the negotiations once the European Commission has further developed its approach in these areas. This will include nuclear research and development, regulatory and wider cooperation, trade and the mobility of nuclear workers and researchers. As with all issues related to the UK's withdrawal, it is clear these issues are closely linked to the future relationship. The UK is keen to discuss this as quickly as possible, in order to establish a close working relationship between the UK and the Euratom Community.

Nuclear safeguards arrangements

8. The UK remains firmly committed to maintaining its role as a responsible Nuclear Weapons State and non-proliferation leader, and to ensuring that a UK nuclear safeguards regime is in place that is commensurate with its international obligations through the IAEA.
9. In order to ensure this, the UK will:
 - agree a Voluntary Offer Agreement with the IAEA that sets out the UK's primary safeguards arrangements in international law;
 - take responsibility for meeting the UK's safeguards obligations, as agreed with the IAEA;
 - in line with the specific circumstances of the UK and respecting the UK's current obligations, agree Nuclear Cooperation Agreements between the UK and key non-EU/Euratom States, including the United States, Canada, Australia and Japan - these agreements will underline the UK's commitment to upholding the safeguards obligations agreed with the IAEA;

- work closely with the European Commission to ensure a smooth transition to its new arrangements, including the setup of the new safeguards regime; and
- seek to ensure that the UK's new regime provides for continued close cooperation with the Euratom Community.

Euratom safeguards equipment

10. As part of the transition to a new nuclear safeguards regime in the UK, it is important to agree the future ownership and liabilities for safeguards equipment that is currently owned by the Euratom Community and located in the UK.
11. The UK will ensure that all necessary safeguards equipment is in place to comply with its IAEA obligations. As part of this, further consideration will be given to the possibility of the UK taking ownership of existing Euratom-owned equipment. This will need to be rooted in a common understanding of the fair value and liabilities of the equipment concerned, and interactions with the EU budget.

Providing certainty on legal issues related to nuclear material

12. There are a number of legal and contractual issues related to nuclear material in both the UK and EU, for which early resolution is important in providing the necessary legal certainty to operators and governments.

Ownership of special fissile material

13. It is important to agree the ownership arrangements for special fissile material to provide the necessary legal certainty related to these materials.
14. The ownership of all special fissile material that is currently with the Euratom Community by virtue of Article 86 of the Treaty, and which is present on UK territory on the date of withdrawal, should transfer to the persons or undertakings with the right of use and consumption of the material pursuant to Article 87 of the Treaty. This should apply in relation to all persons or undertakings with the right of use and consumption, whether these are established in the UK, EU or non-EU states.
15. The ownership of all special fissile material that is currently with the Euratom Community by virtue of Article 86 of the Treaty, and which is present on the Euratom territory on the date of withdrawal, and the right of use and consumption of which pursuant to Article 87 of the Treaty is with a natural or legal person established in the UK, should be transferred to the persons or undertakings with the right of use and consumption on the date this material is exported from the Euratom territory to the UK.

Existing contracts for the supply of nuclear material

16. The agreement should also make clear that contracts for the supply of nuclear material between operators in the UK and Euratom, which have been approved by the Euratom Supply Agency and European Commission, will remain valid and not require any further approvals.

Spent fuel and radioactive waste

17. Appropriate arrangements will also need to be agreed in relation to spent fuel and radioactive waste. This should include ensuring that spent fuel and radioactive waste remain the responsibility of the State in which it was generated, as is currently the case

under Community Law in accordance with Article 4 of Council Directive 2011/70/Euratom of 19 July 2011, establishing a Community framework for the responsible and safe management of spent fuel and radioactive waste. This should apply to spent fuel and radioactive waste generated in both the UK and Euratom Community.

18. This should not affect the right of the UK or an undertaking in the UK to return radioactive waste after processing to its country of origin. In cases in which spent fuel is shipped to the UK for treatment or reprocessing, this should similarly not affect the right of the UK or an undertaking in the UK to return radioactive waste recovered from the treatment or reprocessing operation, or an agreed equivalent, to its country of origin, in accordance with Article 2(4) of the Directive.

Conclusion

19. It is clear that the UK and the Euratom Community have a strong mutual interest in ensuring close co-operation in the future, to harness shared expertise and maximise shared interests.