



# HM Government

## TECHNICAL NOTE: SPENT FUEL AND RADIOACTIVE WASTE

### **Issue**

1. The issue of spent fuel and radioactive waste has been identified by both the UK and EU as an issue to be addressed in the Withdrawal Agreement.

### **UK position**

2. The UK position paper on ‘Nuclear materials and safeguards issues’ of 13 July 2017 stated that:

*“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.*

*“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.”*

### **Background**

3. As part of various waste management contracts, there is spent fuel and radioactive waste generated in the EU27 that is present on UK territory. There is similarly radioactive waste generated in the UK that is present on EU27 territory.
4. The fundamental principle that spent fuel and radioactive waste remain the ultimate responsibility of the State in which it was generated is reaffirmed under international law in the Joint Convention on the Safety of Spent Fuel Management and the Safety of Radioactive Waste Management (INFCIRC/546), to which both the UK and other Euratom Member States are Parties. Under Euratom Community law, the principle is set out in Article 4 of Council Directive 2011/70/Euratom, establishing a Community framework for the responsible and safe management of spent fuel and radioactive waste. The UK’s policy on the import and export of spent fuel and radioactive waste also aligns with this principle.
5. The UK remains committed to discharging its responsibilities in respect of spent fuel and radioactive waste generated in the UK. The UK would expect reciprocal assurances from Euratom Member States that the legal responsibility for EU27 spent fuel and radioactive waste held in the UK will be respected and not eroded as a result of, or subsequently to, the UK’s withdrawal from Euratom. The UK would also value certainty on the means by which this legal responsibility will remain enforceable once the UK has exited Euratom.

### ***Principles for agreement***

6. The UK remains committed to its responsibilities in respect of spent fuel and radioactive waste generated in the UK and present on EU27 territory on the date of withdrawal.
7. The UK would expect reciprocal assurance that spent fuel and radioactive waste generated in a Euratom Member State, and present on UK territory on the date of withdrawal, will remain the responsibility of the relevant Euratom Member State. This is the current position set out under Euratom Community Law in accordance with Article 4 of Council Directive 2011/70/Euratom establishing a Community framework for the responsible and safe management of spent fuel and radioactive waste. This principle should apply equally to any radioactive waste recovered as a by-product from the treatment or reprocessing of this spent fuel and radioactive waste.
8. The UK would also expect assurance that spent fuel and radioactive waste generated in a Euratom Member State, and transferred to UK territory following the date of withdrawal as part of contracts or agreements concluded prior to the date of withdrawal, will similarly remain the responsibility of the relevant Euratom Member State.
9. In the event of any disputes over materials to be returned to the country of origin, the Withdrawal Agreement should provide an unequivocal statement on the rights and obligations of the parties concerned. It should also include a mechanism for the resolution of such disputes, in line with the wider approach to dispute resolution that is to be set out in the Withdrawal Agreement.

### ***Conclusion***

10. In summary, it is expected that reciprocal assurances will be provided in relation to the continued legal responsibilities for spent fuel and radioactive waste, in line with current law and international agreements. This should apply to spent fuel and radioactive waste generated in both the UK and Euratom Community.