SRP Technical Note on the UK Exit from the Euratom Treaty and European Union

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On 29th March 2017 the UK Prime Minister informed the EU of the UK’s intention to withdraw from both the EU and the European Atomic Energy Community (Euratom).

Currently, the negotiations between the EU and UK have focussed on “Withdrawal” Issues, with some discussions on Transitionary Arrangements. Limited discussions have taken place on the Future Relationship between the UK and EU. This is summarised in the diagram below:

SRP established a BREXIT Working Group in Q3 2017 appointed by Council to “advise on the implications for radiation protection and the safety of nuclear materials, following the declared intent by the UK Government to leave the European Union (EU) and European Atomic Energy Community (Euratom).”

This has resulted in SRP publishing a number of EU exit position papers including:

- Position Paper 1 - The Implications for Radiation Protection in the UK
- Position Paper 2 - General Strategy on the Exit from Euratom
- Position Paper 3 - Consideration of Safety of People Exposed to Electromagnetic Fields

In addition, senior members of SRP have been actively engaging with UK Government both via one to one meetings, industry workshops and directly advising our patron Lord Carlile.

With the ongoing discussions and uncertainty around a “No Deal”, SRP is publishing the following short technical note covering our current understanding of the impacts of a “Deal” or “No Deal” scenario on the field of Radiation Protection.

Should members have any further questions then please contact either the BREXIT Working Group or myself via admin@srp-uk.org
Nuclear Safeguards

- Nuclear Safeguards form part of the international counter-proliferation measures to verify that countries comply with their obligations not to use nuclear materials in explosives devices.
- Having a Nuclear Safeguards Regime also plays a key part in establishing Nuclear Cooperation Agreements (NCAs) with other countries (post exit of EU / Euratom).
- An NCA is a legally binding bilateral Agreement negotiated between two States (or international bodies) setting out their intention to, and framework for, cooperating in the civil nuclear sector. They are not a requirement for trade in civil nuclear materials, equipment or technology with most countries. However, they are required for four of the UK’s major trading partners: Australia, Canada, Japan and the US.
- Without these agreements the UK restricts its own access to the international marketplace and undermines its influence on, and ability to participate in, the development of safe and secure nuclear energy programmes both in the UK and abroad.
- The Nuclear Safeguards Bill was passed in June 2018 giving the Office for Nuclear Regulation (ONR) legal powers to deliver a UK domestic safeguards regime, in place of Euratom. In addition, a new set of regulations “Nuclear Safeguards (EU Exit) Regulations 2018” and “Nuclear Safeguards (Fissionable Material and Relevant International Agreements) (EU Exit) Regulations 2018” were approved by Parliament in 2019.
- In parallel NCAs have been signed with Australia, Canada and USA along with the two international safeguards agreements (Voluntary Offer Agreement and Additional Protocol) with the IAEA. Japan and the UK are also currently negotiating an update to the existing bilateral NCA.
- In the event of a “Deal”, namely if the Withdrawal Agreement is adopted, then the UK will continue to be covered by the existing Euratom Arrangements, meaning that the new international agreements and arrangements will not need to come into force until the end of December 2020. However, in the event of a “No Deal” Scenario this new Regulatory Regime will come into force on the 30th March 2019.
- Noting this, the ONR has been operating the new Safeguards Arrangements or State System of Accounting for Control of Nuclear Material (SSAC) in parallel with the Euratom Arrangements since January 2019.
- Regulatory Guidance is currently in development to help the Nuclear and Non-Nuclear Sector comply with the new domestic Safeguards Regime including:
  - ONR Guidance for the Assessment of Nuclear Material Accountancy, Control and Safeguards (ONMACS) - provides ONR with a framework for making consistent regulatory judgements on the adequacy of NMACS arrangements.
  - ONR Guidance on the Regulatory Assessment of Accountancy and Control Plans – under the “Nuclear Safeguards (EU Exit) Regulations 2018” there is a new requirement to produce an Accountancy and Control Plan (ACP). “The accountancy and control plan must describe in writing the arrangements and procedures adopted or to be adopted by an operator to establish and maintain the system of accountancy and control”. This guidance sets down “good practice” to help inform the Nuclear Safeguards Inspectors. The guidance will be in full use from April 2019. However, it will be subject to a review in October 2019 with the aim of issuing the final version of the guidance in Summer 2020. To allow a period of implementation operators will not be required to submit the new ACP until January 2021.
- The ONR will be speaking on the new regime at the Society for Radiological Protection (SRP) Annual Conference in May 2019 giving the opportunity for the Nuclear and Non-Nuclear Sectors to ask further questions. (https://srp-uk.org/events/SRP2019AnnualConference).

Radiation and Environmental Protection Legislation

- It appears that the immediate impacts of EU Exit and Euratom Exit to the UK domestic legislation for radiation protection are minimal, noting the recent update to incorporate the 2013 Euratom Basic Safety Standards Directive (BSSD) (noting that REPPIR 2019 will be laid in Parliament by end of March 2019) into UK legislation.
However, it should be noted that as the UK’s domestic safeguards regime is currently tied to the Euratom BSSD a number of Statutory Instruments have been laid in Parliament to ensure that in the event of a “No Deal” Scenario the disruption to the Nuclear and Non-Nuclear Industries is minimised and Health, Safety and Environmental Standards remain robust. This includes but is not limited to:

- Ionising Radiation (Basic Safety Standards) Miscellaneous Provisions (Amendment) (EU Exit) Regulations 2018
- Transfrontier Shipment of Radioactive Waste and Spent Fuel (EU Exit) Regulations 2018
- Shipments of Radioactive Substances (EU Exit) Regulations 2018
- Ionising Radiation (Environmental and Public Protection) (Miscellaneous Amendments) (EU Exit) Regulations 2018

It is not known how the UK regulatory regime will continue to remain in line with best practice going forward - this is irrespective of both “Deal” and “No Deal” scenarios. It is noted that under the existing Euratom arrangements the UK had a strong position to shape the Euratom BSSD and consequently did not need to influence other organisations. Government, in consultation with other organisations such as SRP, is looking at how to strengthen the relationships with ICRP and IAEA to ensure that the UK is still able to influence the IAEA Basic Safety Standards Directive, in line with which, post exit from the EU and Euratom, the UK will need to keep.

Government has committed, in its Political Declaration with the European Commission, to pursuing a strong relationship with Euratom post exit. This includes maintaining the UK programmes of monitoring of the environment for radioactive materials including reciprocal notification systems under both normal operations of plants and under emergency arrangements.

Article 37 of the Euratom Treaty requires the submission of “general data” relating to any plan for the disposal of radioactive waste, to determine if there is any potential to result in radioactive contamination of the water, soil or airspace of another Member State. An amendment of UK Regulatory Process to effect the removal of Article 37 requirements, and to develop replacement processes to demonstrate that the transboundary radiological impacts of new nuclear facilities have been assessed and are appropriately managed, will be required. This is to ensure the UK remains compliant with the ESPOO Convention.

**Medical Isotope Supply**

Concern has been expressed amongst professional bodies including The Society for Radiological Protection (SRP), British Nuclear Medicine Society (BNMS), British Medical Association (BMA) and Institute of Physics and Engineering in Medicine (IPEM) in relation to the effect of leaving Euratom and the Customs Union on the supply of imported radiopharmaceuticals. In particular:

- The majority of radiopharmaceuticals ordered from European suppliers for use in UK Healthcare Establishments have a half-life of around 3 days, meaning that the amount of radioactivity in the supplied product falls to half every 3 days. If leaving the customs union and/or Euratom means that transit times for the supplied radiopharmaceuticals from Europe to the UK take longer, then to compensate, more activity will have to be ordered, implying more cost for each order.
- Further, the added delay in supply time results in the potential problem of dissociation of radionuclide; the process of producing a radiopharmaceutical for medical use involves taking a radionuclide in “raw” chemical form from a nuclear reactor and adding (or labelling) it to one or a range of chemical compounds.
- There is also the issue of resilience of supply. The UK, due to the work of the European Observatory (a section of the European Atomic Energy Community under the Euratom Treaty) is currently able to rely on a fair share of manufactured radiopharmaceuticals from Europe without fear of loss of supply. This position will not continue post EU Exit.

The Department of Health and Social Care does not expect market access to medicines in the UK to change during the implementation period (until December 2020) should a “Deal” be reached. However, as a responsible government, “No Deal” preparations are in place; this includes advanced plans to air freight these medicines from the EU.
In addition, recognising that in a worst case “No Deal” scenario there will be significantly reduced access across borders for up to six months, the UK Government has agreed that medicines and medical products will be prioritised on any agreed alternative routes. Guidance is under development for companies to put arrangements in place to re-route medical supplies should it be needed.

**Movement of Goods**

- The Government is aiming to negotiate a free trade area on goods, combining deep regulatory and customs co-operation with zero tariffs, no fees, charges or quantitative restrictions across all goods sectors, to come in force from end of the transition period (December 2020). In the event of a “Deal” these negotiations will take place during the transition period to help to minimise disruptions upon exit on December 2020. However, should a “No Deal” scenario occur, there is uncertainty as to when this may come in force.
- In the event of a “No Deal” on exit from the EU, some existing supply contracts will need to be re-approved. This will apply only to supply contracts that:
  - involve both a UK-established operator and an EU27-established operator
  - have been co-signed by the Euratom Supply Agency prior to the UK’s withdrawal
  - have a supply period which extends beyond the date of the UK’s withdrawal.
- For existing supply contracts of this type, UK and EU27 operators affected should engage with the Euratom Supply Agency on the process for re-approval and agree with their counterparts on any steps that will need to be taken to manage the period during which this process takes place.
- It should be noted that for the import and export of nuclear equipment, material and technology falling under the “Trigger List” Requirements, Government to Government Assurances may be required. Items on this list include monitoring equipment for ionising radiation and radioactive materials and their spare parts.
- Further guidance on importing and exporting Dual-Use and Trigger List items in the event of a “No Deal” can be found at:

**Movement of People**

- The UK Government has developed the EU Settlement Scheme to enable EU citizens living in the UK to obtain their status in a straightforward way. The scheme is in its second pilot and will be fully open from March 2019. EU citizens and their families have until June 2021 to apply. An EU Settlement Scheme Employer Toolkit has been developed by the Home Office to enable employers to support their EU citizen employees with clear information and practical advice on what they need to do to apply.
- The future border and immigration system is set to focus on attracting and retaining people who come to work and bring significant benefits to the UK, with a focus on skills. Further details are available in the Home Office White Paper on the Future Borders and Immigration System.
- In summary, in the event of a “Deal” or “No Deal” scenario, EU citizens resident in the UK by March 2019 will be able to stay. They will be able to continue to access UK benefits and services on broadly the same terms as now.

**Data Protection**

- In the event of a “Deal” Data Protection requirements will remain as current during the transitional period. However, in the event that the UK leaves the EU on 29th March 2019 with a “No Deal”, UK businesses will need to ensure they continue to be compliant with data protection law.
The General Data Protection Regulations (GDPR) will be brought into UK law, meaning that current GDPR standards and existing guidance will continue to apply to businesses operating within the UK.

The new regulations contain additional rules to protect data that is transferred outside of the European Economic Area (EEA), known as restricted transfers. If there is a “No Deal” these rules will apply to data transferred from the EEA to the UK.

Further details on these rules and how to comply with them is available on the Information Commissioners Office Website and its Six Steps to Take Guide [https://ico.org.uk/media/2553958/leaving-the-eu-six-steps-to-take.pdf](https://ico.org.uk/media/2553958/leaving-the-eu-six-steps-to-take.pdf)

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