

## Principles for a future agreement between the Euratom Community and the UK

*The European Atomic Forum (FORATOM) is the Brussels-based trade association for the nuclear energy industry in Europe. The membership of FORATOM is made up of 15 national nuclear associations and 2 corporate members, and through these, FORATOM represents more than 800 European companies working in the industry and supporting around 800.000 jobs.*

### Overview

The future civil nuclear relationship between the Euratom Community and the UK should acknowledge the past 40 plus years of close, constructive dialogue and collaboration. The membership of the UK in Euratom contributed to the development of a common regulatory framework as well as to joint industrial and research cooperation. It also facilitated the participation of the EU-27 nuclear industry in the UK nuclear market, thereby contributing to growth and job creation in the EU.

FORATOM calls for the rapid negotiation and conclusion of an Euratom/UK cooperation agreement which would aim at :

- Maintaining the **highest level of coordination, cooperation and engagement on nuclear policy and regulation**, including on **nuclear safety & safeguards**;
- Maintaining the **highest level of cooperation in the field of research**, including the continued participation of UK and EU organisations in common projects such as those of the Euratom Framework Programme and relevant UK programmes;
- Maintaining the effective **current nuclear trade framework** between Euratom and the UK with provisions allowing the avoidance of unnecessary trade and operational barriers.

Given the interconnectivity and international nature of the nuclear industry, it is in the interests of both the EU and the UK to ensure continued cooperation on nuclear issues, in particular through the implementation of measures equivalent to current benefits generated by the Euratom Treaty and the avoidance of any “cliff edges” when the UK leaves Euratom.

FORATOM is aware that the UK Government is currently planning and working on:

- agreeing a new safeguards agreement with IAEA and implementing a UK nuclear accounting and control system in accordance with this agreement, and in accordance with its other international obligations. IAEA approved Safeguards is, of course, a fundamental requirement underpinning any civil nuclear agreement/Nuclear Cooperation Agreement (NCA);
- resolving the outstanding Phase 1 EU/UK negotiations, seeking to resolve important issues surrounding the ownership of nuclear fuel (fissile material) held within the EU and the UK and the arrangements applicable to fuel supply contracts between EU-27 and UK companies/organisations, and
- putting in place NCAs with the four key non-EU countries/markets (US, Canada, Japan and Australia) that have a legal or policy requirement for a NCA for trade in nuclear materials equipment, technology and services. For the post-Euratom exit position, these new bilateral UK NCAs would replace the four Euratom negotiated NCAs (out of nine in total) from which the UK currently benefit.

FORATOM believes that the above should provide the foundation for maintaining a strong and mutually beneficial relationship between Euratom and the UK going forward.

Likewise, FORATOM recommends that a future Euratom/UK agreement seeks to maintain – to the largest extent possible – a privileged relationship between Euratom and the UK.

### **Key Principles for a Euratom/UK agreement**

Building upon this foundation, FORATOM would like to see the following key elements included in a future Euratom/UK agreement to support continuing EU and UK nuclear sector technical and commercial performance, safety and security :

- **Arrangements to ensure/facilitate**, to the greatest extent possible, **free and unrestricted trade in nuclear and non-nuclear materials (including fuel), goods and services and access to information.**
  - The minimisation of tariff and non-tariff barriers (for example, the avoidance of any additional customs and administrative requirements relating to the procurement of import and export licences) to facilitate unrestricted movement of nuclear material, equipment and services;
  - As a minimum, all movements of nuclear material / equipment / services / technology currently covered by Euratom to be subject to the Agreement/NCA;
  - Arrangements to facilitate the needs of construction, ongoing operation & maintenance, fuel cycle services, decommissioning & waste management activities; and also the design/delivery of future nuclear projects such as SMRs

- **Arrangements to ensure/facilitate**, to the greatest extent possible, **the free movement of nuclear workers across the nuclear industry in the EU/UK**. This is important for nuclear operations across the whole cycle, from new build and current operations to decommissioning and waste management.
- **Review and approval of EU27/UK fuel contracts**
  - There should be continuation of the free market (as set out in Chapter IX of the Euratom Treaty) in nuclear material/fuel and associated products between the Community and the UK. The Euratom Supply Agency (ESA) and the European Commission (EC) (if applicable), should seek to agree a streamlined process for the approval of relevant contracts in a timely manner.
  - Confirmation of validity of existing frameworks/contracts:
    - General preservation principle for all existing contracts concluded by ESA, which shall continue in full force and effect in accordance with their terms.
- **The possibility of the UK entering into bilateral agreements with selected EU MSs to supplement the Euratom/UK Agreement**. For example, it might be useful for the UK and a specific EU MS to put in place arrangements that go beyond the provisions agreed between Euratom and the UK (recognising that such an agreement would have to be notified to the EC, must not “impede the implementation” and must be “compatible” with the provisions of the Euratom Treaty).
- **A EU/UK export control licence regime that preserves the benefits of the current EU/UK arrangements, including the existing intra-EU cooperation**
  - Establishment of an EU/UK export control area that would support and facilitate movement and reduce administrative burden/time delays in moving critical parts/technology within the EU/UK;
  - Specifically, it is in the interest of both the EU and the UK to preserve the benefits of:
    - the unique EU government to government assurance arrangement and process (that is applied for Category 0 items) whereby effectively one MS can also sign on behalf of any other to expedite an intra-EU movement and/or movement out of the EU (i.e. with the rest of the world); and
    - a system that maintains the current position of no requirement for export control licences for Category 1-9 items (note export licences are required for Category 1-9 movements in and out of the EU (i.e. with the rest of the world)).
  - In addition, confirmation that existing export control licences remain valid and shall not be terminated on Brexit; and grandfathering arrangements to support a transition and reduce non-tariff barriers.

- **EU/UK arrangements should be implemented to maintain UK coordination and cooperation in the development of nuclear policy & regulation**
  - The UK currently makes a valued contribution to debates on nuclear issues within the EU. It has a strong record of positive cooperation and collaboration with the EU and the worldwide nuclear family, working with others to help shape and deliver nuclear policy and regulation that has kept the EU at the forefront of the nuclear sector. It is therefore highly desirable, and in the strategic long-term interest of the EU-27 and the UK, to continue to engage and work closely together. For example, continued UK engagement on safety and regulation issues via ENSREG, and on broader policy issues via a new Euratom/UK consultative body.
  
- **EU/UK arrangements should be implemented to preserve to the greatest extent possible international collaboration in nuclear R&D**
  - Whilst post Brexit the UK will no longer be automatically entitled to participate in the EU's R&D programmes, it is important a relationship is maintained given the clear mutual benefits of on-going cooperation. Likewise, participation of EU-27 companies in the UK's relevant R&D programmes is important. The EU and the UK benefit equally from shared access to facilities, material, people/experts and technological information/data which are essential for developing cutting edge technology and innovation. The EU and the UK should therefore put in place arrangements to ensure EU and international collaboration in R&D continues (Swiss participation in Euratom R&D, with an associated funding contribution, is one example of how this might be achieved).
  
- **Euratom and the UK should ensure the continued access to and protection of Intellectual Property (IP) created and technology transferred pursuant to the NCA.**
  
- **Dispute resolution/Jurisdiction arrangements.** An agreed consultation and dispute resolution mechanism should be established with regard to the interpretation, application or implementation of the new agreement/arrangements.
  
- **Post Brexit:**
  - **the UK should be required to continue to comply with IAEA safety standards and requirements.** These include the Convention on Nuclear Safety, the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management, the Convention on Assistance in the case of a Nuclear Accident or Radiological Emergency and the Convention on Early Notification of a Nuclear Accident.
  
  - **the UK should also be required to maintain standards of physical protection for exchange/transport of material/goods/equipment.** These standards should align to IAEA requirements and the Convention on the Physical Protection of Nuclear Material, and ensure continuity during any transition period.

For completeness, an EU/UK agreement should also include provision for

- the use of nuclear materials and technologies for application in non-power sectors, including health, industrial and agriculture fields; and
- the addition of other areas for civil nuclear cooperation that may be agreed between the parties in the future.