



House of Commons

Business, Energy and Industrial
Strategy Committee

**Leaving the EU:
implications for the
civil nuclear sector:
Government Response
to the Committee's
Second Report**

**Sixth Special Report
of Session 2017–19**

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Business, Energy and Industrial Strategy Committee

The Business, Energy and Industrial Strategy Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Department for Business, Energy and Industrial Strategy.

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Publication

Committee reports are published on the Committee's website at www.parliament.uk/beis and in print by Order of the House.

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Committee staff

The current staff of the Committee are Chris Shaw (Clerk), Ben Sneddon (Second Clerk), Ian Cruse, Jeanne Delebarre, and Becky Mawhood (Committee Specialists), James McQuade (Senior Committee Assistant), Jonathan Olivier Wright (Committee Assistant) and Gary Calder (Media Officer).

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Sixth Special Report

The Business, Energy and Industrial Strategy Committee published its Second Report of Session 2017–19, [Leaving the EU: implications for the civil nuclear sector](#) (HC 378) on 13 December 2017. The Government’s response was received on 2 March 2018 and is appended to this report.

In the Government response the Committee’s recommendations are shown in **bold** type and conclusions are shown in *bold italic* type; the Government’s response is shown in plain type.

Appendix 1: Letter from the Chair

I write following the Third Reading of the Nuclear Safeguards Bill in the Commons on 23 January. As discussed, it is essential to maintain the UK’s safeguards arrangements and the continuity of nuclear cooperation agreements with our key trading partners during and after our departure from the EU and Euratom. Any hiatus would threaten the operation of our nuclear power plants, ongoing decommissioning activities and our world-leading research programmes.

I welcome your confirmation in the debate that the Government intends to implement safeguards standards equivalent to those of Euratom, rather than only the weaker standards of the International Atomic Energy Agency (IAEA). However, the Office for Nuclear Regulation (ONR) has clearly stated that it may need a transition period of over two years to deliver Euratom-equivalent safeguards. The current lack of provision for a longer Euratom transition period appears to suggest either that the Government has not taken the ONR’s concerns on board, or that it would accept the temporary application of IAEA safeguards standards only.

The Written Ministerial Statement by the Secretary of State on 11 January set out a realistic and sensible negotiating stance for civil nuclear. This is welcome, as are the assurances during the Third Reading debate that:

- the Government will seek a “close association” with Euratom’s research and training programme, including both the JET and ITER projects;
- the UK’s voluntary offer safeguards agreement will be put to the IAEA board of governors for ratification this year, and;
- “constructive progress” has been made in negotiations on nuclear cooperation agreements with the US, Canada, Australia and Japan.

These statements fall short, however, of the series of dated series of milestones that was promised to the BEIS Committee on 1 November.

In light of the above, please could you provide the following information to the BEIS Committee:

- Clarification of whether the Government would accept a period, however short, during which UK nuclear facilities were subject to IAEA safeguards only, and not to Euratom equivalent safeguards.
- Information on the meaning of the proposed “close association” with Euratom on research and training, including both the iET and ITER projects. How would the arrangement compare with the existing Euratom research associations held by Switzerland and Ukraine?
- The remaining issues to resolve in the negotiations with the IAEA for our voluntary offer safeguards agreement, and with the governments of the US, Canada, Australia and Japan for new nuclear cooperation agreements.
- A detailed timetable of milestones that need to be achieved, including target dates, for:
 - the establishment of a UK-IAEA voluntary offer safeguards agreement;
 - the establishment of new nuclear cooperation agreements with the US, Canada, Australia and Japan, and;
 - the establishment of new arrangements that replicate Euratom’s functions in the UK.

It would be helpful to have this information by 20 February.

Rachel Reeves MP

Chair of the Business, Energy and Industrial Strategy Select Committee

5 February 2018

Appendix 2: Letter from the Minister for Business and Energy

Thank you for your letter of 5th February 2018 following the Third Reading of the Nuclear Safeguards Bill in the Commons. I hope I am able to address your points through both this letter and Government’s response to the Select Committee’s report on ‘leaving the EU: implications for the civil nuclear sector’ which was submitted on February 28th 2018.

Before turning to your specific points, I would like to address the important and pertinent need to ensure continuity for the UK nuclear sector from day one of the UK’s departure from the European Union. I whole-heartedly agree with you on this point, as I am sure does the whole of Parliament and the general public. It is certainly the strong view of the industry itself. As the Secretary of State for Business, Energy and Industrial Strategy set out in the Written Ministerial Statement of 11th January 2018 on our strategy on Euratom, our number one priority is continuity for the nuclear sector and we are committed to this ambition.

I thank you for your recognition that the Written Ministerial Statement set out a realistic and sensible negotiating stance for civil nuclear. I hope you will welcome that Government plans to provide Parliament with the first quarterly update on overall progress on implementation of our Euratom strategy before the Easter recess.

Association with Euratom

Turning to the question of nuclear research: as Government set out in our response to the Select Committee's report, the exact nature of our future association with Euratom will be subject to wider negotiations with the European Union. This includes the Euratom Research and Training Programme, Joint European Torus (JET) and the International Thermonuclear Experimental Reactor (ITER) projects.

It is therefore impossible at this stage to set out how our future arrangements will compare with the existing Euratom associations held by Switzerland and Ukraine. Switzerland and Ukraine participate in the Euratom Research and Training Programme through an 'agreement for scientific and technological cooperation'. Both agreements for Switzerland and Ukraine only cover research and training. These agreements do not cover nuclear safeguards activities. At the moment Euratom safeguards inspectors only carry out their work in EU Member States and there is no precedent for them to carry out work outside EU territory.

International engagement

I can confirm that substantial progress has been made in our engagement with key international partners to have new bilateral Nuclear Cooperation Agreements and ensure that all the necessary arrangements are in place. We remain on track to conclude and ratify these agreements during the course of 2018, and we have built into our timetables the necessary parliamentary ratification processes both in the UK and in third countries. This is consistent with the evidence that I and my officials gave you on this point in the autumn, and I am still unclear as to what information the Committee is relying on which casts doubt on that evidence.

In respect of future agreements with the IAEA, we began formal negotiations with the IAEA last September. Discussions have been constructive and substantial progress has been made. Due to the sensitive nature of these and third country discussions, we are unable to go into detail about the issues under discussion. However, as committed in the Written Ministerial Statement, we will be reporting every three months about progress on Euratom, including these negotiations.

Timetable of milestones

With regard to your specific request for a timetable of milestones, as part of the Government's response to the Committee's report, we have set out the timescales involved including indicative ratification periods of the NCA's and UK-IAEA VOA. We also set out, as per your and the Select Committee's requests, the indicative timings for the establishment of new safeguards arrangements to replace Euratom's safeguards role in the UK. The relevant text is at paragraph 16 on page 4.

Your letter also raised the issue of safeguards standards. My colleague Lord Henley is writing to all Peers on this matter and I have asked him to copy his letter to you.

Richard Harrington MP

Minister for Business and Energy

28 February 2018

Appendix 3: Government Response

Introduction

1. The Government welcomes the Committee's report into implications of the UK's withdrawal from the EU for the civil nuclear sector. The report and its recommendations are a valuable contribution to the overall programme of work that the Government is delivering in respect of its departure from the EU and Euratom, covering negotiations and domestic preparations.
2. The Government's objective in our negotiations with the European Commission is to achieve a close association with Euratom in the future. In addition, we are seeking to ensure that Euratom is part of any implementation period negotiated as part of our wider EU exit discussions. The EU's negotiating directives of 29 January set out their intention that the implementation period should cover the whole of the Union acquis, including Euratom matters. At the same time as conducting these negotiations, the Government is putting in place all the necessary measures to ensure that the UK can operate as an independent and responsible nuclear state from day one.
3. The Government is working closely with the Office for Nuclear Regulation (ONR) to ensure that it will be in a position to take on the role and responsibilities required to ensure the UK's future domestic civil nuclear safeguards regime meets international safeguards and nuclear non-proliferation standards when Euratom safeguards arrangements no longer apply in the UK.
4. UK officials have been engaging with four key international partners – the US, Canada, Japan, and Australia – and all parties agree the importance of putting in place bilateral Nuclear Cooperation Agreements (NCAs) to ensure uninterrupted cooperation and trade in the civil nuclear sector. Discussions on these NCAs are progressing well and are on track to be completed before the UK leaves the EU. Our intention is for these agreements to be presented to Parliament for ratification ahead of the UK's withdrawal from Euratom so that they can come into force to when Euratom's NCAs no longer apply to the UK. The nuclear industry remains of key strategic importance to the UK and we want to ensure that projects and investment, like Hinkley Point C, are not adversely affected by the UK's withdrawal from Euratom. The UK remains open to accessing the talent we need from Europe and the rest of the world in the nuclear industry, but this needs to be managed so that our immigration system serves the national interest.
5. The UK's withdrawal from the Euratom Treaty in no way diminishes our nuclear research and development ambitions. Maintaining and building on the country's world-

leading fusion expertise and securing alternative routes into the international fusion research and development projects - the Joint European Torus (“JET”) and the International Thermonuclear Experimental Reactor (“ITER”) – is a key objective in respect of the UK’s future relationship strategy with Euratom

Regulation—Nuclear Safeguards

We recommend that the Government provides to the House, before report stage of the European Union (Withdrawal) Bill, a detailed timeline setting out progress in establishing an alternative UK safeguards regime; and that it commits to providing further updates on a quarterly basis up to March 2019. (Paragraph 15)

6. In the Written Ministerial Statement (WMS) on Euratom, laid in Parliament on 11 January 2018, the Government committed to providing quarterly updates on progress with the issues contained in the WMS. This will include progress on establishing the UK’s domestic safeguards regime.

7. The response at paragraph 16 below sets out plans for Euratom Exit, which incorporates the milestones on the domestic safeguards regime.

The Government should honour its commitment not to reduce existing safeguards regulation. As far as we are aware, the only viable route to achieve this aim is for Euratom to continue managing and operating safeguards in the UK, for the short term at least. This could be consistent with the terms of the Phase 1 Negotiations Report, if the UK assumes ultimate responsibility for international safeguards, but contracts out delivery to Euratom. We recommend that the Government should seek to achieve this aim in negotiations, and to do so as soon as possible, in order to minimise the nugatory expenditure on the establishment of alternative domestic arrangements. (Paragraph 16)

8. The Government’s Written Ministerial Statement of 11 January 2018 set out the Government’s twofold strategy: through negotiations with the European Commission, to seek a close association with Euratom and to include Euratom matters in any implementation period negotiated as part of our wider EU exit discussions; and at the same time, to put in place all the necessary measures to ensure that the UK can operate as an independent and responsible nuclear state from day one of leaving the European Union and Euratom.

9. The Government has made good progress on Euratom separation issues in the last few months as part of Phase One of negotiations with the European Commission. Negotiations have covered a set of legal and technical issues related to nuclear material and waste, and safeguards obligations and equipment.

10. The next phase of discussions with the European Commission will focus on the UK’s future relationship with Euratom. We believe that it is of mutual benefit for both the UK and the EU to have a close association with Euratom and to ensure a future safeguards regime that will be equivalent in effectiveness and coverage to that currently provided by Euratom, including consideration of any potential role for Euratom in helping to establish the UK’s own domestic safeguards regime.

11. Whatever the outcome of the negotiations with the European Commission, it is vital that Government pursues all options for providing certainty for the civil nuclear industry

that it will be able to continue its operations, including that the UK has a safeguards regime that meets international standards when Euratom safeguards arrangements no longer apply in the UK. Such elements are not dependent on the negotiations and the UK Government is well advanced in delivering this plan. This includes establishing a legislative and regulatory framework for a domestic safeguards regime – the Nuclear Safeguards Bill will, subject to the will of Parliament, provide legal powers for the Secretary of State to establish a domestic regime which the Office for Nuclear Regulation will regulate.

12. The Government is working closely with the Office for Nuclear Regulation to ensure that it will be in a position to regulate this new safeguards regime. The Government is confident that, based on current progress, the UK will be in a position to deliver a domestic regime to international standards by March 2019. Such a regime would be able to satisfy the IAEA and the UK's international trading partners, but the Government is committed to going further, supporting the ONR to achieve standards equivalent to those delivered by Euratom in effectiveness and coverage as soon as possible.

If the Government is unable to secure agreement for Euratom to continue delivering the UK's safeguards regime, it should as a minimum seek transitional arrangements that would extend Euratom's existing role in UK safeguards until the ONR is ready and able to take over safeguarding responsibilities, including adherence to Euratom safeguards standards. (Paragraph 17)

13. As set out by the Prime Minister in her Florence speech, the UK Government is proposing a time-limited implementation period where we continue to have access to one another's markets on current terms and take part in existing security measures. The Government confirmed in its Written Ministerial Statement on 11 January 2018 that this implementation period would cover Euratom too. The exact nature of the period will be subject to forthcoming negotiations with the European Commission. The EU's negotiating directives of 29 January set out their intention that the implementation period should cover the whole of the Union acquis, including Euratom matters.

14. However, a central element of our strategy is that the UK must be able to operate as an independent and responsible nuclear state from day one. Establishing a domestic safeguards regime which meets international standards is therefore essential and the Government is confident that, based on current progress, the ONR will be in a position to deliver this by March 2019.

15. The key milestones for delivering the overall programme including safeguards and international agreements for end March 2019, as a contingency in the event that no Implementation Period is agreed, are set out below:

- In order to establish a domestic safeguards regime, the government and the **Office for Nuclear Regulation (ONR)** are progressing a number of work streams to ensure that the UK will continue to meet its international safeguards and non-proliferation obligations, and for civil nuclear trade to continue with key partners, after we have left Euratom. **This summer** the UK will be seeking to agree a new, bilateral **Voluntary Offer Agreement (VOA)** and **Additional Protocol (AP)** with the **International Atomic Energy Agency (IAEA)** to replace the current trilateral agreement with Euratom.

- Discussions on **Nuclear Cooperation Agreements (NCAs)** with Australia, Canada, Japan and the USA are well advanced and significant progress has been made in putting in place draft text. We expect that drafting will be complete **during summer 2018**. Following this, we anticipate that ratification in all four countries will be completed by the **end of 2018**. The ratification procedures vary between countries and will finish at different times; however, we are confident that we will be in a position to exchange notes from the **beginning of 2019** and for the agreements to be able to enter into force in **March 2019**.
- The ONR has already begun preparations to deliver our domestic safeguards regime. This includes recruitment of safeguards inspectors. The first recruitment phase to build this capacity ran **during autumn 2017**; the second phase - which includes both further recruitment and training - commenced **at the end of 2017** and will continue as required **until March 2019**. The ONR will also be procuring a Safeguards Information Management System which will collect, process and put relevant data into a reporting format that the IAEA currently receives from Euratom. We expect that the tender will be issued **this spring** and, following a building and testing phase for the **remainder of 2018**, will be operational by **March 2019**.

Market access, non-tariff barriers and trade

The evidence we have gathered does not support the Government's confidence that nuclear cooperation agreements with the USA, Canada, Australia and Japan will be in force by March 2019. Any hiatus in their provision would present a material threat to nuclear trade. No deal in relation to nuclear cooperation agreements is not a viable option. *The Government must therefore, at the very least, secure transitional arrangements that enable the UK to continue trading with the USA, Canada, Australia and Japan through Euratom's existing nuclear cooperation agreements until such time as new agreements between the UK and these countries can be established. (Paragraph 23)*

16. In its evidence to the Committee, the Government explained that officials have been engaging with the US, Canada, Japan, and Australia to ensure uninterrupted cooperation and trade in the civil nuclear sector through nuclear co-operation agreements. These discussions are progressing well and are on track to be completed before the UK leaves the EU. The response in paragraph 16 above gives an outline of the timescales involved including indicative ratification periods. As set out by the Prime Minister, the Government is proposing a time-limited implementation period where the UK and EU27 continue to have access to one another's markets on current terms and take part in existing security measures. The Government confirmed in its Written Ministerial Statement on 11 January 2018 that this implementation period would cover Euratom too, and that is also the position set out in the EU's negotiating directives of 29 January. The exact nature and scope of the period will be subject to forthcoming negotiations with the European Commission.

Research and development

We recommend that the Government seeks to maintain the existing benefits of EU R&D collaboration, for example through an agreement similar to those held by Switzerland and Ukraine with Euratom. (Paragraph 29)

17. The Government is looking forward to discussing the options for future collaboration on nuclear research and training as part of the negotiations. In its Statement of 11th January 2018 the Government set out its intention to seek a close association with the Euratom Research & Training Programme, including the ITER and JET projects.

The Government should also seek clarity and update the House with its assessment of how the Austrian presidency may affect the chances of the timely resolution of JET's funding. If this does appear to be a material concern, the Government should fast track the funding negotiations, and put in place contingency arrangements, not dependent on a European Commission decision, to allow JET's continuation until the negotiations are resolved. (Paragraph 30)

18. JET contract extension discussions are currently underway in Brussels. In June 2017, the Government guaranteed that it would provide its fair share of the funding for the Oxfordshire-based JET fusion reactor until 2020.

19. The EU Council will vote in March 2018 on the legal instrument that would provide funding for the Euratom Research and Training Programme extension for 2019–2020. This is currently passing through EU Parliamentary scrutiny processes. Agreement of this legal instrument will allow for the JET contract extension.

20. JET contract extension discussions are currently underway. We do not expect the Austrian Presidency to affect the timing.

Skills

In determining its negotiating objectives on freedom of movement and subsequent immigration policy, the Government must ensure that progress on strategically vital projects such as nuclear power plants is not jeopardised by restrictions in the supply of workers at all skill levels. (Paragraph 33)

21. The Government understands the importance to businesses and communities, including those in the nuclear sector, of being able to access the workforce they need.

22. The UK remains open to accessing the talent we need from Europe and the rest of the world in the nuclear industry, managed in a way that ensures our immigration system serves the national interest.

23. The Government has commissioned the Migration Advisory Committee (MAC) to gather evidence on patterns of EU migration and the role of migration in the wider economy, ahead of our exit from the EU. The Government will carefully consider any recommendations made to it by the MAC before finalising the details of the future immigration system for EU nationals.

24. We have asked the MAC to report by September 2018 and advised that interim reports throughout the period would be helpful to our input into our developing policies.

25. We are considering a range of options for the future immigration system and will set out initial plans in the coming months. We will ensure that those businesses and communities, and Parliament have the opportunity to contribute their views before making any decisions about the future system.

26. We agree it is essential that projects and investment are not adversely affected by the UK's withdrawal from Euratom, and can continue to operate with certainty.

Transitional arrangements and our future relationship

The well-established and significant economic benefits of close association with, or membership of, Euratom should not be put at risk to escape any hypothetical and unidentified adverse impact on the civil nuclear sector arising from European Court of Justice jurisdiction (CJEU). (Paragraph 38)

27. Euratom and the EU share a common institutional framework, making them uniquely legally joined. Therefore, when we formally notified our intention to leave the EU we also commenced the process for leaving Euratom.

28. The Government has consistently emphasised that where it is mutually beneficial for the UK and the EU to work closely together the Government will seek to do so. The Written Ministerial Statement on the future relationship with Euratom laid on 11 January 2018 underlines that position.

29. The Written Ministerial Statement sets out a strategy for the Government's objectives of a close association with Euratom Research & Training programmes, continuity of trade arrangements for nuclear goods and products, and close and effective cooperation with Euratom on nuclear safety

We agree with the Government that the UK should seek an association with Euratom that is as close as possible to existing arrangements, and which replicates the functions already conducted on the UK's behalf by Euratom. (Paragraph 43)

30. In the Written Ministerial Statement of 11 January 2018, the Government set out its ambition for a close and effective association with Euratom. This is not likely to mean a continuation of the current arrangements. The European Commission has made clear that, whatever the future relationship between the UK and the EU, it will be on a different legal basis to the current relationship, as the UK will no longer be a Member State. The Government confirms that it is seeking a close association with Euratom in the future, but the nature of the relationship will be subject to negotiations with the European Union on our future relationship.

31. Our plans are designed to be robust so as to be prepared for a number of different scenarios including the outcome in which there is no future agreement. Within these plans, our top priority is continuity for the nuclear sector. The Nuclear Safeguards Bill will enable the establishment of a domestic nuclear safeguards regime which will ensure the UK meets international safeguards standards when Euratom arrangements no longer apply in the UK. We have committed that such a regime will provide coverage and effectiveness equivalent to Euratom arrangements.

Given the Government's stated intention to achieve the "closest possible" relationship with Euratom, it is essential that the UK retains the maximum level of influence possible in Euratom policy making. As a minimum, the UK must maintain ongoing engagement with, and preferably membership of, existing advisory European bodies. (Paragraph 46)

32. The Government recognises the importance of continuing its long-standing and mutually beneficial relationship with relevant advisory bodies set up under Euratom auspices and with non-Euratom organisations to maintain and develop a common understanding in areas such as nuclear safety and radioactive waste management. The Government is exploring possible ways of continuing such engagement through appropriate mechanisms, noting that there are precedents for non-EU countries to participate in organisations like the European Nuclear Safety Regulators Group (ENSREG).

The British public deserves clear communication of the implications of any Brexit deal ahead of it taking effect. The Government should acknowledge that any gain in sovereignty arising from our departure from Euratom will come at the cost of diminished influence. (Paragraph 47)

33. In the Written Ministerial Statement of 11 January 2018 the Government has committed to providing quarterly updates on progress on Euratom, covering the negotiations with the European Commission and other important matters covered by the WMS.

34. The Government is seeking a close association with Euratom as part of the exit negotiations.

35. The nature and form of this relationship will constitute part of discussions with the European Union. There are a number of other areas relevant to this relationship, such as movement of goods and services, which will also constitute part of broader negotiations over the arrangements for the UK's withdrawal from the European Union. What is agreed on Euratom will need to fit with these wider negotiating objectives.

36. There is a clear common interest for the UK and the EU27 in maintaining close and effective co-operation on nuclear issues and the Government is confident that it will reach the right agreement with our European partners.