



Brexit and Environmental Law

**Exit from the Euratom Treaty and its
Environmental Implications**

**Stephen Tromans QC
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July 2017

The UK Environmental Law Association is the foremost body of environmental lawyers in the UK. UKELA aims to promote better law for the environment and to improve understanding and awareness of environmental law. UKELA is composed of 1,400 academics, barristers, solicitors, consultants, and judges involved in the practice, study and formulation of environmental law across England, Scotland, Wales and Northern Ireland.

UKELA remained neutral on the Brexit Referendum. In order to ensure regulatory stability and continued environmental protection UKELA considers it imperative that the UK's current environmental legislation is preserved pending proper review, and full and open consultation on options for change. UKELA's full position on Brexit can be found at www.ukela.org/ukelaposition.

UKELA's Brexit Task Force was established in September 2016 to advise on all matters relating to and arising from the UK's decision to leave the European Union insofar as this impacts environmental law, practice and enforcement in the UK. The Task Force has been examining the legal and technical implications of separating our domestic environmental laws from the European Union and the means by which a smooth transition can be achieved. With the assistance of UKELA's specialist working parties the Task Force aims to inform the debate on the effect of withdrawal from the EU, and draw attention to potential problem which may arise.

The UKELA Brexit Briefing Papers have been produced under the guidance and approval of UKELA's Brexit Task Force chaired by Andrew Bryce and Professor Richard Macrory, and with input from relevant UKELA Working Parties and individuals. They do not necessarily and are not intended to represent the views and opinions of all UKELA members.

This report is the first in a series to be published by UKELA on the implications of Brexit for environmental law.

Other titles will include:

- 1 Brexit and Environmental Law: the UK and International Environmental Law after Brexit**
- 2 Brexit and Environmental Law: Enforcement and Political Accountability Issues**
- 3 Brexit and Environmental Law: Environmental Standard Setting Outside the EU**
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Executive summary

The withdrawal from Euratom (“Brexitom”) is a constitutionally and juridically separate process from leaving the EU which is subject to separate negotiation requirements, including its own Agreement, its own process, and perhaps also its own time-table.

Whatever the outcome of the Euratom withdrawal process, the UK will need a close future relationship with Euratom and its members. In the longer term maintaining close regulatory equivalence between UK and Euratom Nuclear Safety laws and regulations seems both a realistic and necessary aim.

This paper focuses on the continuing fulfilment of the UK’s international obligations in relation to Safety (as opposed to Security or Safeguards). Particular focus is given to the maintenance of public confidence in the protection of human health and the environment. The following measures are looked at in detail:

- Safety of Nuclear Installations. It is envisaged that the UK will continue to comply with the basic requirements within the Euratom Framework Directive. The UK will remain a party to the 1994 Convention on Nuclear Safety, which imposes equivalent obligations, but this Convention imposes legal duties of a different character.
- Basic Safety Standards and related measures such as on the control of high-activity sealed sources. Again, it seems unlikely that this will result in a weakening of current Euratom standards although further questions arise in relation to future developments of these standards.
- Responsible and safe management of spent fuel and radioactive waste. It seems unlikely that in the short term there will be any significant change in the UK’s approach, given the broad framework nature of the Directive. New systems and transitional arrangements may be required for the safe management (and documenting) of radioactive waste shipments. The UK will remain party to the Joint Convention on the Safety of Spent Fuel Management and the Safety of Radioactive Waste Management.
- Movement of radioactive substances. It is unclear how shipments of radioactive substances (including sealed sources) will be dealt with at a regulatory, operational level. Agreement will have to be reached between the UK and Euratom, resources will be required to ensure the necessary arrangements are in place.

Further questions arise in relation to continuing the UK’s current involvement with nuclear regulatory bodies. Particular attention is drawn to ENSREG (the European Nuclear Safety Regulators’ Group) and ECURIE (European Community Urgent Radiological Information Exchange).

In relation to the EU’s external relations, there are a number of Nuclear Co-operation Agreements entered into between Euratom and non-member states, which wholly or in part relate to Nuclear Safety. Under these agreements the UK both has commitments and derives benefits. These agreements will have to be replaced as quickly as possible.

There are imminent external demands on the UK to delineate plans for orderly and uninterrupted compliance with its relevant nuclear treaty obligations, including particularly the 6th Review Meeting of the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management in 2018, and the 8th Review Meeting of the Convention on Nuclear Safety in 2020.

Brexit and Environmental law: Exit from the Euratom Treaty and its Environmental Implications

A: Introduction

1 The Euratom Community and the EU are distinct legal entities, governed by different Treaties (see Article 184 Euratom Treaty). They do of course share common institutions in the Commission, European Parliament, Council and European Court of Justice. Under Article 106a of the Euratom Treaty, a number of specific provisions of the TEU and TFEU apply to the Euratom Treaty. Among these is Article 50 of the TEU.

2 When the Government published its European Union (Notification of Withdrawal) Bill on 26 January 2017, the Explanatory Notes accompanying the Bill stated as follows at paras. 17 and 18:

“17. Clause 1(1) provides power for the Prime Minister to notify the European Council of the United Kingdom’s intention to withdraw from the European Union.

18. The power that is provided by clause 1(1) applies to withdrawal from the EU. This includes the European Atomic Energy Community (‘Euratom’), as the European Union (Amendment) Act 2008 sets out that the term “EU” includes (as the context permits or requires) Euratom (section 3(2)).”¹

3 The Prime Minister’s letter to the President of the European Council of 29 March 2017 invoking Article 50 says:

“In addition, in accordance with the same Article 50(2) as applied by Article 106a of the Treaty Establishing the European Atomic Energy Community, I hereby notify the European Council of the United Kingdom’s intention to withdraw from the European Atomic Energy Community. References in this letter to the European Union should therefore be taken to include a reference to the European Atomic Energy Community.”²

4 The Annex to the Recommendation for a Council Decision authorising the opening of the negotiations for an agreement with the United Kingdom of Great Britain and Northern Ireland setting out the arrangements for its withdrawal from the European Union noted at paragraph (1) that the UK provided notification under Article 50. It does not record any separate notification in relation to the Euratom Treaty. However, at paragraph (3) the main objective of the Agreement is expressed to be to “ensure an orderly withdrawal of the United Kingdom from the European Union and from the European Atomic Energy Community” [emphasis added]³.

5 Whereas the notification of intention to withdraw from the EU and Euratom appears to have been made and accepted by way of a single communication from the UK Government, these are separate acts. Specifically Article 106a(2) of Euratom, provides:

“Within the framework of this Treaty, the references to the Union, to the ‘Treaty on European Union’, to the ‘Treaty on the Functioning of the European Union’ or to the ‘Treaties’ in the provisions referred to in paragraph 1 and those in the protocols annexed both to those Treaties and to this Treaty shall be taken, respectively, as references to the European Atomic Energy Community and to this Treaty.”

6 The effect of Article 106a(2) is simply to provide that when reading the relevant provisions (including Article 50, as applied to Euratom), the references to the Union, etc., in those provisions are read as references to Euratom. Accordingly, Article 50, as applied to Euratom, reads:

“1. Any Member State may decide to withdraw from [the European Atomic Energy Community] in accordance with its own constitutional requirements.

2. A Member State which decides to withdraw shall notify the European Council of its intention. In the light of the guidelines provided by the European Council, the [the European Atomic Energy Community] shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be negotiated in accordance with [this Treaty]. It shall be concluded on behalf of the [the European Atomic Energy Community] by the Council, acting by a qualified majority, after obtaining the consent of the European Parliament.

3. [This Treaty] shall cease to apply to the State in question from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period."

- 7 It seems clear that the UK's withdrawal from Euratom is a constitutionally and juridically separate process which is subject to separate negotiation requirements from those pertaining to withdrawal from the EU⁴. This may be of importance, and advantage, in view of the particular complexities and challenges of effecting the UK's withdrawal while maintaining its continuing international law commitments to the "3 S's" of Security, Safeguards and Safety in the nuclear field. "Brexatom" requires its own Agreement and its own process - and perhaps also its own time-table⁵.
- 8 Article 2 (a) – (h) of the Euratom Treaty sets eight "sub-tasks" for Euratom to undertake in carrying out its primary, Article 1, task of contributing to "...the raising of the standard of living in the Member States and to the development of relations made with the other countries by creating the conditions necessary for the speedy establishment and growth of nuclear industries."
- 9 Of these various sub-tasks, and competences, the one with direct bearing on the environment and environmental protection is:

"... (b) [to] establish uniform safety standards to protect the health of workers and of the general public and ensure that they are applied."

It is addressed in Chapter 3 of the Treaty.

- 10 Probably the greatest challenges arising from the UK's withdrawal from Euratom are in the areas of Nuclear Security and Safeguards and in the related impacts on the UK's international relations in the nuclear field and nuclear trade⁶. Some of the key issues are noted in Appendix A.
- 11 The Background Briefing to the Queen's Speech announced proposals for a Nuclear Safeguards Bill⁷; however, we do not anticipate that the safety related issues which are the principle subject of this paper will be the focus of this Bill⁸. Similarly, these issues are not addressed in the European Commission's position paper to the EU27 on nuclear materials and safeguard equipment for discussion at the Council Working party on Art. 50, which is principally concerned with ownership of nuclear material and safeguards⁹.
- 12 The continuing fulfilment of the UK's international obligations in relation to Safety and the maintenance of public confidence in the protection of human health and the environment do raise their own issues and these are discussed more fully in Section B below. In the interest of time, this paper is necessarily limited to the implications of withdrawal from Euratom on nuclear safety in relation to the whole UK as a reserved matter. This paper does not consider the possible interface with nuclear safety in the context of devolved matters, e.g. town and country planning.

B: Nuclear safety

- 13 Whilst the UK will cease to be subject to the Euratom Framework Directive on the Safety of Nuclear Installations¹⁰ it is envisaged that under the European Union (Withdrawal) Bill the UK will continue to comply with these basic requirements. It will remain a party to the 1994 Convention on Nuclear Safety (CNS), which imposes equivalent obligations but this Convention, of course, imposes legal duties of a different character and works through peer review rather than legal sanctions.
- 14 Similarly, the UK will cease to be subject to the Euratom Basic Safety Standards (BSS) Directive¹¹, and related measures such as the High-Activity Sealed Sources Directive¹². It seems unlikely that this will result in a weakening of current standards, though there is no guarantee of this. IAEA Standards on radiological protection, while stating widely-accepted international norms and standards, have no binding legal force. While the UK Government has said in the Great Repeal Bill White Paper that *“the Bill will convert EU law as it stands at the moment of exit into UK law”*¹³ and that it recognises, in certain contexts, the need to consult on changes to the regulatory frameworks, including through parliamentary scrutiny¹⁴, it will need to be considered how, as Euratom continues to develop BSS’s, those standards will in future be received and treated in the UK¹⁵. In the longer term, it might be possible for the UK to modify, or even dispense with, the specific requirements of the BSS Directive, though this would be highly controversial.
- 15 The reality is that whatever the course and outcome of the Euratom withdrawal process, the UK will need a close future relationship with Euratom and its members, not least to ensure the confidence of the international community and of the public that the UK has the informational and technical resources to deliver safety across the sector on an uninterrupted basis. In this context, it is questionable whether the UK could continue as a member of European Nuclear Safety Regulators’ Group (ENSREG)¹⁶ and the current post-Fukushima risk and safety assessment and peer review programme. The ENSREG Rules state that it shall facilitate consultation, coordination and cooperation of national regulatory authorities in the EU¹⁷, and that membership is for appointed representatives of EU member states¹⁸. ‘Observer status’ for experts from EEA states at certain high level meetings is permissible under the ENSREG Rules of Procedure¹⁹, but it is doubtful whether the UK’s participation at this level would be adequate. This collaboration on safety issues is essential and new arrangements will need to be devised. There are similar questions as to the UK’s future ability to deliver Safety were it no longer to be a member of the European Radiological Data Exchange Platform (EURDEP)²⁰. Here too new arrangements for continued (voluntary) membership would be required.
- 16 Emergency preparedness is another important area for co-operation. Euratom requirements are currently incorporated into UK law in the Radiation (Emergency Preparedness and Public Information) Regulations 2001²¹, but international co-operation will remain critical in terms of information sharing and co-ordination of responses. It will be necessary to set up different co-operation arrangements between Euratom countries and the UK as a third country under Article 99 of the BSS Directive. Operationally, the UK would need to consider non-member engagement with ECURIE (European Community Urgent Radiological Information Exchange), as Switzerland and Croatia do. There are, however, questions as to whether the ECURIE Agreement as now constituted could allow appropriate UK participation²².
- 17 The UK, while still a party (together with the EU) to the Joint Convention on the Safety of Spent Fuel Management and the Safety of Radioactive Waste Management, will cease to be bound by Euratom Directive 2011/70 on a framework for the responsible and safe management of spent fuel and radioactive waste. As with the Nuclear Safety Directive it seems unlikely that, at least in the short term, there will be any significant change in the UK’s approach, given the broad framework nature of the Directive. The Government has suggested that *“appropriate arrangements”* will need to be agreed to replicate the provisions of Article 4 of that directive²³, however our analysis of the legal issues related to nuclear material suggests that new systems/transitional arrangements may be required more broadly for the safe management (and documenting) of radioactive waste shipments, in particular where member states are transit states (see below).
- 18 Careful thought will need to be given to the arrangements for the supervision and control of shipments of radioactive waste and spent fuel, currently governed by Directive 2006/117/Euratom²⁴. Chapter 3 on Extra-Community Shipments will come into play when the UK, as a third country, consigns waste to enter Euratom by way of import or transit, or where waste is exported from the Community to the UK. These need not pose insuperable problems, but time and care will be needed to ensure the necessary arrangements are in place.

- 19 In the case of shipments of radioactive substances, including sealed sources, Council Regulations on the shipments of radioactive substances between Member States²⁵ will require further consideration, in light of the provisions in the European Union (Withdrawal) Bill, specifically in relation to future reciprocity and the provisions of clause 7(2) of the Bill. These include a wide range of items with commercial and industrial uses as well as for medical diagnosis and therapy. It is not clear, absent these Regulations (and the UK's future approach to the co-operative policies and systems established under EU law regulating the Inland Transport of Dangerous Goods²⁶), how such shipments will be dealt with: again agreement will have to be reached between the UK and Euratom (and the EU).
- 20 There are a number of Nuclear Co-operation Agreements (NCAs) entered into under Article 101 of Euratom between Euratom and non-member states, wholly or in part, relating to Nuclear Safety, under which the UK both has commitments and also derives benefits, in particular in the area of international trade in nuclear services and technology and R&D²⁷. Notable amongst these (from the UK's view point) are the NCAs with Brazil, Argentina, Canada and Japan. These will have to be replaced as quickly as possible.
- 21 Overall there is a need for a full "gap analysis" of the UK's ability, post-withdrawal, to meet, uninterrupted its international obligations with regard to Safety, in particular under the Nuclear Safety Convention and the Joint Convention on the Safety of Spent Fuel Management and Radioactive Waste Management²⁸. The 8th Review Meeting of the Convention on Nuclear Safety will be in 2020. The 6th Review Meeting of the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management will be in 2018. These meetings create external, additional and quite imminent demands on the UK to delineate plans for orderly and uninterrupted compliance with its relevant nuclear treaty obligations.
- 22 In the longer term, maintaining close regulatory equivalence between UK and Euratom Nuclear Safety laws and regulations seems a realistic and also necessary aim. Establishing principles, or at least parameters, on equivalence in a future Euratom withdrawal agreement is, alongside replacing as many as possible of the current Article 101 NCA's, perhaps the greatest priority for the imminent "Brexitom" negotiating process²⁹.

Appendix A

Safeguards and Security Issues

- Continuing status/application to UK of 1978 (IAEA/EURATOM/MS's) Tri-partite Agreement on physical inspections and UK's voluntary offer inspections (IAEA /INFCIRC/263)? Position of IAEA (on Safeguards Controls and its own capacity to deliver these)? Impacts on UK's NTP and Convention on Physical Protection (CPPNM) obligations?
- "Gap analysis" of UK's ability, post-withdrawal, to fulfil, uninterrupted, its international obligations under the NPT, CPPNM and various international Nuclear Terrorism Conventions.
- Withdrawal from EURATOM Safeguards – process and timing (Article 83 EURATOM sanctions risk).
- Relationship/co-operation between ONR, FCO, MoJ etc. and relevant EURATOM/MS authorities on Security co-operation?
- UK's system of materials accounting post-withdrawal – what new systems/changes required?³⁰
- UK's ability to fulfil its own international obligations made during transition from current bilateral co-operation agreements absent continuation of Euratom Safeguards regime?
- Future/continuing use by UK/UK entities of pre-withdrawal IP rights acquired under Art 12 Euratom.
- Art 192 Euratom: analysis and clarification of nature and extent (by reference to specific obligations) of post-withdrawal duty on UK to fulfil Euratom Treaty obligations of a continuing/executory nature entered into pre-withdrawal?
- Status in UK law of Euratom legislation (e.g. Regulation 1493/93/Euratom on Shipment of Radioactive Substances between Member States and 2006 Recommendation on Financial Resources for Decommissioning), requiring future reciprocity; relevant to this are clauses 3 of the European Union (Withdrawal) Bill (read together with clause 14(6) of the Bill) and clause 7(2).

In the context of all the above, it may be noted that any (temporal) lacuna in the UK's ability to deliver on its international commitments or national law/regulatory changes required by withdrawal (including by way of need for new transitional arrangements) might impact conditions in current commercial nuclear sector investment arrangements; supply and other commercial contracts and default provisions in financing arrangements.

International Relations and Trade Issues

- Delineation of "legal" and "economic" ownership rights and interests as between Euratom and UK over pre-withdrawal special fissile material (Arts 62 and 80 Euratom) and of rights under pre-withdrawal Art 64 contracts; including inter-relationship with Chapter VII Safeguards arrangements; clarifying the mechanisms for delivery of the proposals in para 37 of the Annex to the European Commission's draft negotiating directive.
- Post-withdrawal status of Art 89 Euratom Special Fissile Materials Account in relation to pre-withdrawal materials currently accounted.
- Legal status and continuation of Euratom "Joint Undertakings" to which UK is party (including continued participation in JET and ITER/DEMO).
- Art 101 NCA's to be re-negotiated (key priority).

Endnotes

- 1 'European Union (Notification of Withdrawal) Bill: Explanatory Notes', 26 January 2017. URL: <https://www.publications.parliament.uk/pa/bills/cbill/2016-2017/0132/en/17132en.pdf> [retrieved 5.7.17]
- 2 Prime Minister's Office, 'Prime Minister's letter to Donald Tusk triggering Article 50', 29 March 2017. URL: <https://www.gov.uk/government/publications/prime-ministers-letter-to-donald-tusk-triggering-article-50> [retrieved 5.7.17]
- 3 European Commission, 'Annex to the Recommendation for a Council Decision authorising the opening of the negotiations for an agreement with the United Kingdom of Great Britain and Northern Ireland setting out the arrangements for its withdrawal from the European Union', 3 May 2017. URL: https://ec.europa.eu/info/sites/info/files/annex-recommendation-uk-eu-negotiations_3-may-2017_en.pdf [retrieved 5.7.17]. Similarly, the European Commission Task Force for the Preparation and Conduct of the Negotiations with the United Kingdom under Article 50 TEU state, in their position paper on nuclear materials and safeguard equipment, that "On the date of withdrawal, the Treaties, including the [Euratom Treaty] cease to apply to the United Kingdom", see ref 9 (below)
- 4 See, for instance, Jonathan Leech and Rupert Cowan, 'Brexit white paper confuses Euratom debate', World Nuclear News, 8 February 2017. URL: <http://www.world-nuclear-news.org/V-Brexit-white-paper-confuses-Euratom-debate-08021702.html> [retrieved 5.7.17]
- 5 See, for instance, Jonathan Leech and Rupert Cowan, 'Brexit and Euratom: No Rush to exit?', World Nuclear News, 20 January 2017. URL: <http://www.world-nuclear-news.org/V-Brexit-and-Euratom-No-rush-to-exit-20011701.html> [retrieved 5.7.17]
- 6 See, for instance, Nuclear Industry Association, 'The UK's Withdrawal From Euratom', May 2017. URL https://www.niauk.org/wp-content/uploads/2017/05/Exiting-Euratom_May17.pdf [retrieved 5.7.17]
- 7 Prime Minister's office, 'The Queen's Speech and Associated Background Briefing, on the Occasion of the Opening of Parliament on Wednesday 21 June 2017', 21 June 2017. URL: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/620838/Queens_speech_2017_background_notes.pdf [retrieved 5.7.17]. At the time of writing this Bill has not been published.
- 8 *ibid*, at page 24: "The purpose of the Bill is to: Establish a UK nuclear safeguards regime as we leave the European Union and Euratom."
- 9 European Commission, 'Position paper transmitted to EU27 on nuclear materials and safeguard equipment (Euratom)', 23 June 2017. URL: https://ec.europa.eu/commission/publications/position-paper-transmitted-eu27-nuclear-materials-and-safeguard-equipment-euratom_en [retrieved 5.7.17]
- 10 Council Directive 2009/71/Euratom establishing a Community framework for the nuclear safety of nuclear installations, as amended by 2014/87/Euratom
- 11 Council Directive 2013/59/Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom
- 12 Council Directive 2003/122/Euratom on the control of high-activity sealed radioactive sources and orphan sources. Although note that Directive 2013/59/Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation will repeal Directive 2003/122/Euratom by 6 February 2018.
- 13 As appears to contemplated by clauses 2 and 3 of the European Union (Withdrawal) Bill, as published by the Government on 13 July 2017
- 14 Department for Exiting the European Union, 'Legislating for the United Kingdom's withdrawal from the European Union' (Cm 9446), 15 May 2017. URL: <https://www.gov.uk/government/publications/the-repeal-bill-white-paper/legislating-for-the-united-kingdoms-withdrawal-from-the-european-union> [retrieved 5.7.17]
- 15 There appear to be relevant powers in clause 7 of the European Union (Withdrawal) Bill
- 16 Constituted under Commission Decision 2007/530/Euratom of 17 July 2007 on establishing the European High Level Group on Nuclear Safety and Waste Management
- 17 European High Level Group on Nuclear Safety and Waste Management, 'Revised Rules of Procedure', 27 September 2011. URL <http://www.ensreg.eu/document/revised-rules-procedure-ensreg-august-2011> [retrieved 5.7.27], at Article 1.3
- 18 *ibid*, Article 2.1
- 19 *ibid*, Article 2.2
- 20 Participation in which is regulated by Council Decision 87/600/Euratom of 14 December 1987 on Community arrangements for the early exchange of information in the event of a radiological emergency, and Commission recommendation 2000/473/Euratom of 8 June 2000 on the application of Article 36 of the Euratom Treaty concerning the monitoring of the levels of radioactivity in the environment for the purpose of assessing the exposure of the population as a whole Recommendation 2000/473/Euratom.

- 21 SI 2001/2975, and corresponding regulations for Northern Ireland, Radiation (Emergency Preparedness and Public Information) Regulations (Northern Ireland) 2001/436
- 22 See UKELA's forthcoming paper 'Brexit and Environmental Law: The UK and International Environmental Law after Brexit', and, for instance, House of Commons Library, 'Legislating for Brexit: EU external agreements' (Briefing Paper Number 7850), 5 January 2017, URL <http://researchbriefings.files.parliament.uk/documents/CBP-7850/CBP-7850.pdf> [retrieved 5.7.17]
- 23 Department for Exiting the European Union, 'Nuclear materials and safeguards issues - position paper', 13 July 2017. URL: <https://www.gov.uk/government/publications/nuclear-materials-and-safeguards-issues-position-paper> [retrieved 13/7/17]
- 24 Council Directive 2006/117/Euratom of 20 November 2006 on the supervision and control of shipments of radioactive waste and spent fuel
- 25 Council Regulation (Euratom) No 1493/93 on Shipments of Radioactive Substances between Member States
- 26 Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods, as amended by Commission Directive 2012/46/EU of 6 December 2012
- 27 Nuclear Industry Association, 'The UK's Withdrawal From Euratom', May 2017. URL https://www.niauk.org/wp-content/uploads/2017/05/Exiting-Euratom_May17.pdf [retrieved 5.7.17] at 3.17, and Jonathan Leech and Rupert Cowan, 'Brexit white paper confuses Euratom debate', World Nuclear News, 8 February 2017. URL: <http://www.world-nuclear-news.org/V-Brexit-white-paper-confuses-Euratom-debate-08021702.html> [retrieved 5.7.17]
- 28 The European Union (Withdrawal) Bill appears to recognise this requirement at clause 8
- 29 See, House of Commons Library, 'Euratom' (Briefing paper number CBP 8036), 7 July 2017. URL <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-8036> [retrieved 11.7.17]
- 30 see Institute of Mechanical Engineers, 'Leaving the EU the Euratom Treaty Part 2: A Framework for the Future 2017', 8 May 2017. URL: <https://www.imeche.org/docs/default-source/default-document-library/leaving-the-eu-the-euratom-treaty-part-2-a-framework-for-the-future.pdf?sfvrsn=0> [retrieved 5.7.17]



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Brexit and Environmental Law: Exit from the Euratom Treaty and its Environmental Implications

By Stephen Tromans QC and Paul Bowden

This paper looks at the process of leaving the Euratom Treaty. It focuses on questions of safety, the protection of human health and the environment. It examines the continued operation of a number of specific legislative measures, the UK's involvement with external bodies and the interaction with other international agreements.

Withdrawal from the EU and withdrawal from Euratom are, as legal and constitutional processes, separate exercises, however they may be conducted practically and politically. In view of the particular complexities and challenges of withdrawing from Euratom, and of the UK maintaining a demonstrable commitment to Safety in the nuclear field, 'Brexitom' requires its own Agreement and its own timetable.

This paper highlights a number of specific challenges. For instance, the UK must find clear agreements with Euratom and its members states for continued regulatory equivalence and full participation in key safety-related bodies, such as ENSREG. Furthermore, the review and re-alignment of existing Nuclear Co-operation Agreements embracing Nuclear Safety with states outside Euratom (not only countries such as the US, Japan and Canada but those with developing civil nuclear capability) is an urgent priority, in order to maintain the UK's international contribution in this field and to demonstrate continued leadership.

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