Summary of the destination of Euratom powers and functions in the event of the withdrawal of the UK from the Euratom Community

Background

1. The policy of the Scottish Government is that Scotland voted clearly and decisively to remain within the European Union, and thus Euratom, and we have demonstrated that this is the best option for Scotland’s future.

2. The Brexit White Paper published in July 2018 set out the UK Government’s proposals for a future relationship with the EU and its institutions after March 2019 and the planned transition period up to December 2020. The paper proposed a new agreement with Euratom in the form of a Nuclear Cooperation Agreement (NCA) for civil nuclear. This agreement is subject to negotiation and is intended to:

   a) Establish a cooperation mechanism between the UK safeguards regulator and Euratom
   b) Provide for UK association with the Euratom Research and Training Programme
   c) Ensure continuity of contractual arrangements for the supply of nuclear material
   d) Minimise barriers and simplify export control arrangements
   e) Provide for technical cooperation on nuclear safety e.g. ECURIE, EURDEP
   f) Continue UK cooperation and information-sharing with the European Observatory on the Supply of Medical Radioisotopes

Effects of withdrawal

3. This section will set out, at a summary level, the effect of withdrawal on current Euratom powers and functions.

Regulatory standards and thresholds

4. Regulatory standards and limits for activities involving radioactive substances are set out in Euratom Directives, including the key Basic Safety Standards Directive. These standards and limits are already incorporated into domestic legislation. This includes devolved regulations, most importantly the Environmental Authorisations Regulations (Scotland) 2018 that set out regulatory arrangements for radioactive substances, including waste and emissions from nuclear sites, in Scotland. The standards and limits are also incorporated into reserved safety regulation of nuclear sites and transportation, and into regulations that cover both reserved and devolved responsibilities. All of this legislation will be considered to ensure that it continues to function following exit, and any necessary amendments proposed to ensure the continued effectiveness of the regulations. This is the subject of the notification before the Committee for two sets of regulations that cover both reserved and devolved responsibilities.
5. Most standards set out in Euratom Directives are drawn from the International Atomic Energy Authority (IAEA), to which the UK will remain a signatory. We are putting in place arrangements across the four UK administrations to allow for a coordinated response, across reserved and devolved responsibilities, to any future changes in the regulatory standards set by the IAEA.

**Euratom Supply Agency**

6. The Euratom Supply Agency (ESA) has the exclusive right to conclude contracts for the supply of ores, source materials and special fissile materials within the EU. The ESA monitors transactions involving services in the nuclear fuel cycle (enrichment, conversion, fabrication) and monitors the functioning of the market in nuclear materials. On exit, the UK will cease to be covered by these arrangements. The status of existing contracts, and the future relationship between the UK and the ESA is subject to negotiation between the UK authorities and the EU. This is a reserved matter, but the UK Government is consulting with us on their plans.

**Trans-frontier Shipments of Nuclear Material**

7. Council Directive 2006/117/Euratom sets out the procedure for carrying out shipments of radioactive materials and waste between Euratom Member States. This is a reserved matter, and the UK Government is planning for new UK Regulations to provide for the obligations on the UK party to the transfer of nuclear materials into, and out of, the UK. The UK Government is consulting with us as they develop their plans.

**Nuclear Safeguards**

8. Nuclear Safeguards is the system to ensure that there is a proper control and record of all fissile materials. This is an important international obligation on the UK under nuclear non-proliferation treaties. This function is currently carried out in the UK through Euratom arrangements, and the UK Government has been working to institute a domestic system of safeguarding, through the Nuclear Safeguards Act 2018, and Regulations under that Act. In addition, the UK has signed agreements with the IAEA to provide for oversight the UK’s safeguarding regime. This is a reserved matter, and the UK Government has consulted us as they developed their plans.

**Nuclear Cooperation Agreements**

9. Nuclear Cooperation Agreements (NCA’s) are bi- or multilateral agreements between countries for cooperation on nuclear related projects, tasks and work. They can involve the exchange of material, information, expertise and personnel and capital. All of the NCA’s that the UK is currently a part of have been created either by Euratom on behalf of the Community, or have been endorsed by Euratom as a co-signatory. The UK will lose access to these existing arrangements on exit from Euratom. The UK Government is negotiating new NCA’s with non-EU countries, prioritising those countries with important commercial and technological links. The nature of future links with Euratom countries is a part of the wider negotiation of future relationships between the UK and the Euratom Community. This is a reserved matter, and the UK Government is consulting us on their plans.
**Nuclear Common Market**

10. The Nuclear Common Market was established on the formation of Euratom to promote the exchange of materials, skills and people between members of the Community. A key element of this relates to the free movement of nuclear-skilled workers across the Community for nuclear related activities. Future arrangements are part of wider negotiations between the UK Government and the EU and Euratom. This is a reserved matter, and the UK Government is consulting us on their plans. The Scottish Government will seek means to retain access to the best skilled workers in areas of devolved responsibility.

**Research and Development related to nuclear technologies**

11. As part of the original mandate of Euratom, the Treaty is used to promote research and to ensure the dissemination of information within the Community. The UK is heavily involved in the JET Fusion research and the International Thermonuclear Experimental Reactor project. The future involvement in research is part of the negotiation on future arrangements, and there is a precedent for non-members such as Switzerland to cooperate on research. This is mainly a reserved matter and the UK Government is consulting us on their plans. The Scottish Government wishes to continue to share knowledge with Euratom partners on devolved areas of responsibility, such as radioactive waste disposal technologies.

**Inspection and Verification of Environmental monitoring and sampling**

12. Euratom representatives periodically inspect the effectiveness of systems to monitor and sample the emissions from nuclear sites, and make recommendations. This covers both reserved and devolved responsibilities, and we are working with the UK Government on future arrangements to give equivalent reassurance. There is no precedent to a non-member state being part of the Euratom arrangements, and it would not be clear what the legal basis for this could be. However, the UK Government will discuss what joint arrangements could be made with the Euratom system. There are arrangements under the IAEA Integrated Regulatory Review Service (IRRS) which operate on invitation basis, which give access to external verification of systems.

**Notification and reporting**

13. Under the Euratom Treaty and daughter Directives, we are required to notify our regulatory arrangements, which the Commission tests for compliance with the Directive provisions. In addition, there are reporting requirements in some Directives, such as the spent fuel and nuclear waste Directive, which allow the Commission to test the adequacy of our national plans. This is ultimately backed by the potential for infraction cases. These arrangements straddle both reserved and devolved responsibilities. We have made clear to the UK Government that it would be unacceptable for these functions to fall to UK Ministers, and this is accepted.
14. The future assurance of the effectiveness of our regulatory systems for radioactive substances is a part of wider discussions of future environmental governance following exit from the EU and Euratom. The Scottish Government will bring forward proposals on environmental governance later in the year.

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