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A NEW NUCLEAR SAFEGUARDS REGIME: A NEW CHALLENGE FOR THE UK

Keen “Brexatom” watchers will recently have picked up on remarks made by the Secretary of State for Business, Energy and Industrial Strategy, Greg Clark, on the setting up of a domestic “nuclear safeguards regime”.

As a result of our withdrawal from Euratom we will no longer fall within Euratom’s safeguards regime, and with nothing else in place the UK’s relationship with its nuclear trading partners could be seriously affected. It could, for example, have an impact on the ability of potential nuclear new build organisations in France, Japan, the US, China and Korea being able to export reactor designs and physical nuclear power plant components to the UK.

What is a nuclear safeguards regime?

The safeguards regime is administered by the International Atomic Energy Agency (IAEA) and ensures through physical inspection that:

- (i) those countries which are signed up to the 1970 Treaty on the Non-Proliferation of Nuclear Weapons (NPT) do not manufacture or acquire nuclear weapons, and;
- (ii) the five defined nuclear weapons states (China, Russia, UK, France and the US) do not assist other countries to acquire nuclear weapons. The regime is not mandatory for the nuclear weapons states, but each has entered into equivalent voluntary arrangements.

The application of safeguards in the UK is more than a little complicated because of the UK’s status as both a nuclear weapons state and a Member State of the EU, and the fact it did enter into a voluntary arrangement with both organisations in 1978.

Euratom, which is administered by the European Commission, has established its own similar system of safeguards additional to the NPT requirements which require Member States to have high standards of materials accountancy and to make their nuclear facilities available for inspection as part of ensuring nuclear material is not diverted. Such inspections are usually done through both installed cameras and visits to facilities. Sellafield, with its large quantities of separated plutonium, is inspected about three times a month. Annually over 200 inspections are carried out in more than 100 UK facilities.

Why is the announcement important?

When the UK leaves Euratom, unless alternative arrangements are in place, only the voluntary arrangement with the IAEA will apply; the stricter Euratom requirements will not. This will be a cause for upset amongst our trading partners, with whom we will have to enter into bilateral Nuclear Co-operation Agreements instead.

Mr Clark’s announcement included the vital importance that the new domestic nuclear safeguards regime, to be run by the Office for Nuclear Regulation (ONR), is as

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comprehensive and robust as that currently provided by Euratom, and that it should exceed the standard that the international community would require from the UK as a member of the IAEA.

International oversight will be a key part of the future regime. The UK is currently seeking to conclude new agreements with the IAEA that follow the same principles as the current ones. These will ensure that the IAEA retains its right to inspect all civil nuclear facilities, and receive all current safeguards reporting, ensuring that international verification of our safeguards activity continues to be robust.

The ONR is currently assessing what this might mean for them and it is highly likely they will need to recruit additional resources to build the necessary in-house capability. They will need not only additional people but also equipment, infrastructure and processes. In evidence to the BEIS Parliamentary Committee, ONR said this will be “very challenging” and that only a basic system could be in place within the two years. The immediate question therefore is whether having only a basic system in place will be enough to satisfy our trading partners. If not it is highly possible that the UK’s ability to build new nuclear power stations will fall further behind schedule, and that the UK’s world leading civil nuclear sector will no longer be able to operate and generate income in the way it currently does.

About The Author

Edward de la Billiere is a Solicitor and co-founder of Prospect Law. He trained at the leading Middle East firm Trowers and Hamlins, working in both their London and Dubai offices, predominantly in the oil sector. On qualification, Edward moved to Magnox Electric, which was taken over by the nuclear operator BNFL. He has retained a strong interest in infrastructure and, in particular, energy related projects and has advised recently in respect of energy projects for corporate, local authority and private clients across the UK and internationally.

Prospect Law is a multi-disciplinary practice with specialist expertise in the energy and environmental sectors with particular experience in the low carbon energy sector. The firm is made up of lawyers, engineers, surveyors and finance experts who provide a complete service for clients.

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