



BRIEFING PAPER

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EURATOM

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Summary

The European Atomic Energy Community, better known as Euratom, was established in the 1950s as part of the creation of the European Community. The UK became a member of both on 1 January 1973. Euratom provides the basis for the regulation of civilian nuclear activity, implements a system of safeguards to control the use of nuclear materials, controls the supply of fissile materials within EU member states and funds leading international research such as the Culham Centre of Fusion Energy.

The Government have said that Euratom and the EU are “uniquely legally joined” such that “triggering *Article 50* therefore also entails giving notice to leave Euratom”. The legal basis of this point is debated.

Leaving Euratom has the potential to impact the UK’s current nuclear operations, including fuel supply, waste management, cooperation with other nuclear states, and research. Industry has warned of a “cliff edge” exit that could cause “major disruption to business across the whole nuclear fuel cycle.” The UK will need to take on a number of measures to leave Euratom smoothly and some are concerned that the timetable for achieving these measures is ambitious.

The Business, Energy and Industrial Strategy (BEIS) Committee have recommended delaying the departure from Euratom to give the nuclear industry time to set up alternative arrangements.

The Queen’s Speech contained a *Nuclear Safeguards Bill* to give the UK’s Office for Nuclear Regulation powers to take on the role and responsibilities of Euratom, required to meet international safeguards, and nuclear non-proliferation obligations.

Euratom will continue regulating the UK nuclear industry until the exit from the EU. The UK hosts significant nuclear research work and current funding, such as that for the Culham Centre, will continue until 2018. Beyond that point it is unclear what the impacts of withdrawing from Euratom will be on nuclear regulation and research in the UK.

1. What is Euratom?

The European Atomic Energy Community, better known as Euratom, was established in the 1950s as part of the creation of the European Community. The Treaty establishing the European Economic Community and the Treaty establishing the European Atomic Energy Community, known collectively as the *Treaties of Rome*, were signed in March 1957 and came into force on 1 January 1958.¹ At the time there were six founding states - Belgium, France, Germany, Italy, Luxembourg and the Netherlands - but Euratom has grown as the European Community, and then European Union (EU), has enlarged. The UK became a member of both on 1 January 1973.²

The *Euratom Treaty* specifies that it is operational within the countries of the EU and shares the EU's institutional framework but is a distinct legal entity from the European Union (EU) under the 1957 Euratom Treaty.³

Euratom was founded to contribute to the formation and development of Europe's nuclear industries, to guarantee high safety standards and to prevent nuclear materials intended principally for civilian use from being diverted to military use. It provides the basis for the regulation of civilian nuclear activity, implements a system of safeguards to control the use of nuclear materials, controls the supply of fissile materials within EU member states and funds leading international research into nuclear fission and nuclear fusion.⁴

In the UK today Euratom regulates the nuclear sector, including fuel supply, waste management and cooperation between nuclear states, and contributes to funding the leading fusion research undertaken at the Culham Centre in Oxfordshire.

2. Brexit

2.1 Leaving Euratom – legal debates

The previous Government maintained that Euratom and the EU are “uniquely legally joined” such that “triggering *Article 50* therefore also entails giving notice to leave Euratom”.⁵

The explanatory notes to the *European Union (Notification of Withdrawal) Act 2017*⁶ confirmed this stating:

The power that is provided by section 1(1) applies to withdrawal from the EU. This includes the European Atomic Energy Community ('Euratom'), as the European Union (Amendment) Act

¹ [Treaty Establishing the European Atomic Energy Community \(Euratom\)](#), Accessed 22 June 2017

² [Treaty of Accession of Denmark, Ireland and the United Kingdom](#), 1972

³ [Euratom Treaty](#), 1957

⁴ Nuclear Industry Association, '[The UK's Withdrawal from Euratom](#)', May 2017

⁵ HC Deb 1 February 2017, [Vol 620](#)

⁶ HM Government, [European Union \(Notification of Withdrawal\) Act, Explanatory notes](#), 2017

2008 sets out that the term “EU” includes (as the context permits or requires) Euratom (section 3(2)).

Furthermore, the Government White Paper on Brexit, published in February 2017 states that:

8.30 When we invoke Article 50, we will be leaving Euratom as well as the EU. Although Euratom was established in a treaty separate to EU agreements and treaties, it uses the same institutions as the EU including the Commission, Council of Ministers and the Court of Justice. The European Union (Amendment) Act 2008 makes clear that, in UK law, references to the EU include Euratom. The Euratom Treaty imports Article 50 into its provisions.

8.31 As the Prime Minister has said, we want to collaborate with our EU partners on matters relating to science and research, and nuclear energy is a key part of this. So our precise relationship with Euratom, and the means by which we cooperate on nuclear matters, will be a matter for the negotiations – but it is an important priority for us – the nuclear industry remains of key strategic importance to the UK and leaving Euratom does not affect our clear aim of seeking to maintain close and effective arrangements for civil nuclear cooperation, safeguards, safety and trade with Europe and our international partners. Furthermore, the UK is a world leader in nuclear research and development and there is no intention to reduce our ambition in this important area. The UK fully recognises the importance of international collaboration in nuclear research and development and we will ensure this continues by seeking alternative arrangements.⁷

This position of the necessity of exiting Euratom with the EU is debated by lawyers. One commentator, Steve Peers, Professor of EU Law and Human Rights Law at the University of Essex, has broadly supported the previous Government’s view that the treaties are combined.⁸

However, some nuclear energy lawyers disagree with this interpretation, and maintain that the nexus between the treaties creates a parallel but separate legal process for leaving Euratom. For example, Jonathan Leech and Rupert Cowen, senior nuclear, energy and commercial lawyers at energy and infrastructure firm Prospect Law, have argued that Article 50 would have been drafted differently had it meant to apply to both treaties.⁹

Press reports in late June quoting a former Government special advisor noted that the key issue for the Government in the exit from Euratom was the free movement of nuclear specialists provided for in the Euratom Treaty and the jurisdiction of the European Courts of Justice.¹⁰

The Business, Energy and Industrial Strategy (BEIS) Committee report into UK energy and climate change priorities post-Brexit looked at the

⁷ HM Government, [The United Kingdom’s exit from and new partnership with the European Union](#), February 2017

⁸ Professor Steve Peers, [‘The UK Brexits Euratom: Legal Framework and Future Developments’](#), EU Law Analysis Blog, 30 January 2017

⁹ Jonathan Leech and Rupert Cowan, [‘Brexit and Euratom: No Rush to exit?’](#), World Nuclear News, 20 January 2017

¹⁰ Heather Stewart, [‘PM’s European Court stance has ‘hamstrung’ Brexit negotiations’](#), The Guardian, 30 June 2017

Government's decision to leave Euratom.¹¹ After hearing conflicting legal views and the concerns of industry over the exit, the Committee concluded:

We note that the necessity of leaving Euratom is subject to legal uncertainty, but that uncertainty puts the continuing operation of the nuclear industry in the UK at risk. The Government therefore has a responsibility to resolve this matter as urgently as possible.

The Government's objective to leave the jurisdiction of the European Court of Justice means that it is politically unfeasible for the UK to remain a member of Euratom in the long term, but a temporary extension to our membership—if legal—would allow time for new arrangements to be put in place.

We recommend that the Government seeks to delay our departure from Euratom. This would give the nuclear industry a realistic window for setting up alternative arrangements—including safeguards and international nuclear cooperation agreements—so as to minimise any disruptions to trade and threats to power supplies.

2.2 Post-Brexit UK-Euratom relationship

The Queen's Speech

The Queen's Speech 2017 included a *Nuclear Safeguards Bill*.¹² The Government said:

The Bill will establish a UK nuclear safeguards regime as we leave the European Union and Euratom. The Bill will give the Office for Nuclear Regulation¹³ powers to take on the role and responsibilities required to meet our international safeguards, and nuclear non-proliferation, obligations.

The background briefing for the Queen's speech gave extra details of this Bill:¹⁴

- The purpose of the Bill is to:
 - Establish a UK nuclear safeguards regime as we leave the European Union and Euratom.
- The main benefits of the Bill would be:
 - To ensure that the UK continues to meet our international obligations for nuclear safeguards, as applies to civil nuclear material through the International Atomic **Energy Agency**.
 - To continue the UK's reputation as a responsible nuclear state, to support international nuclear non-proliferation, and to protect UK electricity supplied by nuclear power.
- The main elements of the Bill are:
 - To give the Office for Nuclear Regulation powers to take on the role and responsibilities required to meet our international safeguards, and nuclear non-proliferation obligations.
- Key facts

¹¹ Business Energy and Industrial Strategy Committee, '[Leaving the EU: negotiation priorities](#)', Fourth Report of Session 2016–17, 2 May 2017

¹² Gov.uk, '[The Queen's speech 2017: what it means for you](#)' Nuclear Safeguards Bill, 21 June 2017

¹³ The [Office for Nuclear Regulation](#) manages aspects of the UK's nuclear industry already, such as the Generic Design Assessment for new reactors.

¹⁴ Gov.uk, '[The Queen's Speech And Associated Background Briefing](#)', 21 June 2017

- Nuclear safeguards are reporting and verification arrangements to ensure that civil nuclear material is not diverted from its intended use.

These arrangements are essential for a responsible nuclear state, and a prerequisite for civil nuclear trade.

Alternative Membership

If the UK leaves Euratom, but wishes to continue cooperation, it may consider some alternative membership options, or choose to continue cooperation in a different way.

Associate Membership: According to Article 206 of the Euratom Treaty:¹⁵

The Community may conclude with one or more States or international organisations agreements establishing an association involving reciprocal rights and obligations, common action and special procedures.

It is on the basis of this article that Switzerland became an Associated Country to Euratom in 2014. Such an arrangement could be one way to access funding for nuclear research.¹⁶

Third country membership: According to Article 101 of the Euratom Treaty:

The Euratom Community may, within the limits of its powers and jurisdiction, enter into obligations by concluding agreements or contracts with a third state, an international organisation or a national of a third state.

By acquiring the status of third country, the UK might join countries such as USA, Australia, Canada, Japan, South Korea and Kazakhstan. Third country membership involves setting up common research topics of mutual interest in which cooperation can take place on a shared-cost basis.¹⁷ This status would not automatically make the United Kingdom a member of the International Thermonuclear Experimental Reactor (ITER) and although Euratom is able to fund projects in third countries, it may not guarantee UK projects such as JET.¹⁸

In February, Jesse Norman, the then Parliamentary Under Secretary at the Department for Business, Energy and Industrial Strategy, said that the UK:¹⁹

Remains committed to the highest standards of nuclear safety, safeguards and support for the industry, and will aim for continuity of the cooperation and standards enjoyed under Euratom membership.

A debate in Westminster Hall on 12 July 2017 led by Albert Owen considered “That this House has considered negotiations on future Euratom membership”.

¹⁵ [Treaty establishing the European Atomic Energy Community \(Euratom\)](#), 1958

¹⁶ Elizabeth Gibney, [‘Researchers shocked at UK’s plan to exit EU nuclear agency’](#), *Nature*, 27 January 2017

¹⁷ European Commission, [‘Euratom Nuclear Research - International Cooperation’](#). Accessed 27 June 2017

¹⁸ Lexology, [‘The UK’s withdrawal from Euratom’](#), May 18 2017

¹⁹ [EURATOM: Membership: Written question](#) – 63612, 8 February 2017

The Parliamentary under Secretary of State at the Department for Business, Energy and Industrial Strategy Richard Harrington MP concluded the debate, saying:²⁰

Our primary aim will be to maintain our mutually successful civil nuclear co-operation with Euratom and the rest of the world. I reiterate that we are strong supporters of Euratom, and that is not going to change. The first phase of negotiations will commence next week, on 17 July, following the publication of the European Commission's position paper on Euratom.

A position paper on 'Nuclear materials and safeguards issues'²¹ was published by the Government on 13 July 2017.

3. The Impact on the UK

Euratom regulates the UK's civil nuclear industry, including safeguards for nuclear materials and technology, disposal of nuclear waste, ownership of nuclear fuel, and research and development.²² All of these roles would have to be replaced. It appears the Nuclear Safeguard's Bill will propose that these roles will be undertaken by the UK's Office for Nuclear Regulation.

3.1 Current nuclear power

Industry has warned of a "cliff edge" exit that could cause "major disruption to business across the whole nuclear fuel cycle."²³ The UK will have to take on a number of measures to leave Euratom smoothly such as:

- Design, resource and implement new UK safeguarding arrangements in line with accepted international standards;
- Replace current safeguarding commitments under the Non Proliferation Treaty (which are also predicated on Euratom membership);
- Identify and plan negotiation of replacement Nuclear Cooperation Agreements (NCAs) with countries with which the UK has ongoing nuclear trade.²⁴

As Euratom manages inspections of UK nuclear power, the UK will need to agree new inspections with the International Atomic Energy Agency before the UK exits the EU. Some have warned of delays, for example, Dame Sue Ion, honorary president of the Nuclear Skills Academy and former chair of the Nuclear Innovation Research Advisory Board, spoke of the possible disruption missing this deadline could cause saying:

²⁰ HC Deb 12 July 2017 [C109WH](#)

²¹ HM Government, ['Nuclear materials and safeguards issues. Position Paper.'](#) 13 July 2017

²² European Commission, ['Nuclear Energy'](#), Accessed 22 June 2017.

²³ Adam Vaughan, ['Nuclear Industry warns UK must avoid 'cliff edge' over Brexit'](#), The Guardian, 2 May 2017

²⁴ Jonathan Leech and Rupert Cowan, ['Brexit White Paper Confuses Euratom Debate'](#), World Nuclear News, 8 February 2017

It's absolutely real [the impact if alternatives are not in place]. It literally does mean you cannot move material or IP [intellectual property] or services or components or medical isotopes.²⁵

Such delays would have consequences for current operation, waste and decommissioning, and to new builds such as Hinkley Point. Some have suggested this could have a number of impacts: for example, disrupting UK energy supply (nuclear provides 20% of the UK's electricity) or the supply of material used for medicines (see below).²⁶

The UK also needs to put in place Nuclear Cooperation Agreements (NCAs) with key nuclear countries including the US, Japan and Australia as current agreements are based on Euratom membership and would expire when the UK leaves. The process is slowed by sequencing, as safeguards must be in place before NCAs can be negotiated.²⁷

Though most commentators focus on the negative impacts of leaving Euratom there are some potential benefits to UK nuclear from leaving the EU. Some argue current EU state aid rules limit nuclear new build, such as Austria's complaint over Hinkley C.²⁸ Depending on any new trade arrangement, revised aid rules could give the UK more freedom in supporting nuclear infrastructure.

3.2 Health

The Euratom treaty not only manages the movement of nuclear material for power production, but also for medical uses. Radioactive isotopes²⁹ are used in medicine for the diagnosis and treatment of various diseases, including cancers, cardiovascular and brain disorders.³⁰ Over 40 million procedures involving radioactive materials are performed each year globally, and demand for radioisotopes is increasing at up to 5% annually.³¹ In England, around half a million scans for diagnosis are performed every year using imported radioisotopes³² and more than 10,000 patients across the UK receive cancer treatments using these materials.³³

In the UK medical isotopes are imported and mainly sourced from a few research reactors.³⁴ Many of these are in EU countries such as the Netherlands, Poland, Belgium, France, Germany and the Czech Republic.³⁵ The isotopes often have short half-lives, meaning they decay rapidly and cannot be stored. This creates the need for constant supply

²⁵ Ibid

²⁶ Andrew Ward and Alex Barker, '[The nuclear fallout from Brexit](#)', Financial Times, 2 March 2017

²⁷ Jonathan Leech and Rupert Cowan, '[Brexit and Euratom: No Rush to exit?](#)', World Nuclear News, 20 January 2017

²⁸ Emily Gosden, '[Government and EDF in talks over liabilities if Austria wins nuclear state aid appeal](#)', The Telegraph, 30 June 2015

²⁹ POSTnote 558, '[Supply of medical Radioisotopes](#)', July 2017

³⁰ European Commission, '[Supply of medical radioisotopes](#)', Accessed 11 July 2017

³¹ World Nuclear News, '[Radioisotopes in Medicine](#)', May 2017

³² NHS England, '[Diagnostic Imaging Dataset Statistical Release: 2016-2017](#)' 18 May 2017

³³ British Nuclear Medicine Society and Science & Technology Facilities Council, '[Future Supply of Medical Radioisotopes for the UK](#)', December 2014

³⁴ Some radioisotopes can also be produced in particle accelerators.

³⁵ World Nuclear News, '[Radioisotopes in Medicine](#)', May 2017

which has failed in the past, creating global shortages.³⁶ In response to shortages between 2008 and 2010, the Euratom Supply Agency was given a more prominent role in overseeing the supply chains.³⁷ Health specialists are concerned that any changes to import arrangements as a result of leaving Euratom could impact on the delivery of health treatments.

The Royal College of Radiologists have expressed these concerns and added that the cost of radioisotopes could possibly rise on leaving Euratom, which would add more pressure to the National Health Service. In a statement the College added:³⁸

The Royal College of Radiologists, like others in medicine and industry, is seriously concerned about continued access to these materials if we leave the Euratom treaty under Brexit. So far, there is little certainty about what leaving Euratom might actually mean in practical terms. Government officials have given general assurances they will consult with industry over nuclear safeguarding. The Royal College of Radiologists is adamant that they must do just that, and soon. Navigating Brexit is undoubtedly a huge task for ministers, but our access to these vital materials for diagnosing and treating cancer must not be left to slip down the negotiations list.

Recently a number of MPs have signalled their opposition to withdrawing from Euratom in the press, stating fears for cancer patients amongst other concerns.³⁹

However in response to a Parliamentary Question on the issue in June 2017, the Minister for Universities, Science, Research and Innovation, Joseph Johnson, said:⁴⁰

Medical radioisotopes are not special fissile nuclear material, and are not subject to international nuclear safeguards. Therefore, their availability should not be impacted by the UK's exit from Euratom.

3.3 Research

Horizon 2020

Horizon 2020 is the biggest EU Research and Innovation programme to date with nearly €80 billion of funding available over 7 years (2014 to 2020) in addition to private investment.⁴¹ Euratom has been part of the programme through nuclear research and innovation funding and has around €1.6 billion to spend until 2018.⁴²

³⁶ British Nuclear Medicine Society and Science & Technology Facilities Council, [‘Future Supply of Medical Radioisotopes for the UK’](#), December 2014

³⁷ Institute for Government, [‘Euratom’](#), accessed 11 July 2017

³⁸ Dr Nicola Strickland, [‘RCR statement on the potential impact of leaving the Euratom treaty’](#), Royal College of Radiologists, 10 July 2017

³⁹ Jonathon Prynne and Joe Murphy, [‘Tory rebellion goes nuclear: nine MPs oppose plan to quit body that would ‘threaten supply of key cancer treatment material’](#), Evening Standard, 10 July 2017

⁴⁰ HC Deb 27 June 2017 [Vol 626](#)

⁴¹ European Commission, [‘What is Horizon 2020?’](#) Accessed 21 June 2017

⁴² Enrico Nano and Simone Tagliapietra, [‘Brexit goes nuclear: the consequences of leaving Euratom’](#), Bruegel, 21 February 2017

As of February 2016, 25 UK organisations had participated in Euratom projects under Horizon 2020, receiving funding of €32 million from the European Commission.⁴³

In August 2016, the Department for Business, Energy and Industrial Strategy announced that the Treasury would underwrite funding for approved Horizon 2020 projects applied for before the UK left the European Union, even if the specific project continued beyond the UK's departure from the EU.⁴⁴

Joint European Torus (JET) programme

JET is a fusion power project at the Culham Centre for Fusion Energy in Oxfordshire. Euratom provides 87.5% of the funding for the Joint European Torus (JET) programme and the UK Government funds the remaining 12.5% itself. This funding is agreed until 2018. Until ITER (below) becomes operational, JET is the world's largest tokamak, a magnetic fusion device designed to prove the feasibility of fusion as a large-scale and carbon-free source of energy based on the same principle that powers the sun and stars.⁴⁵ The future of the project will be determined as part of the Brexit negotiations.⁴⁶

The JET facilities are collectively used by European fusion scientists, coordinated by a programme management unit at the Culham Centre. The Culham Centre states that:⁴⁷

Around 500 people are employed at the JET facilities, with around 350 European scientists visiting each year to conduct research, and many from outside Europe.

The BBC⁴⁸ have suggested that these jobs are at risk. The Culham Centre statement on the EU referendum said:⁴⁹

The UK's decision to leave the EU will have no immediate effect on [the] operation of JET – Europe's fusion experiment at Culham Science Centre – as funding is secure until the end of 2018.

[We] are committed to try and exploit JET beyond 2018 up until 2020, attempting to set new performance records and help JET's successor, the international ITER project, and every effort will be made to make this happen. But extensions to JET operation from 2018-2020 and beyond 2020 are much more uncertain after [the Brexit vote]. We will work closely with our sponsor in Government (the Department for Business, Innovation & Skills) and European partners to try and secure the best outcome.

On the 27 June 2017 Secretary of State for Business, Energy and Industrial Strategy Greg Clark, laid before Parliament a Departmental Minute noting that the Government was supporting, and underwriting

⁴³ Culham Centre for Fusion Energy, '[About Us](#)', Accessed 22 June 2017

⁴⁴ Department for Business, Energy and Industrial Strategy, '[Safeguarding Funding for Research and Innovation](#)', 13 August 2016.

⁴⁵ ITER, '[What Is ITER?](#)' Accessed 22 June 2017

⁴⁶ '[EUROfusion statement on Brexatom](#)', 27 January 2017

⁴⁷ '[About Culham Centre for Fusion Energy](#)', Accessed: 21 June 2017

⁴⁸ David Shukman, '[UK nuclear fusion lab faces uncertain future](#)', BBC, 29 November 2016

⁴⁹ Culham Centre for Fusion Energy, '[Statement of EU referendum result](#)', 24 June 2016

the UK's share of costs in a potential extension of the JET contract until 2020.⁵⁰

International Thermonuclear Experimental Reactor (ITER)

ITER is a project to build the world's largest tokamak. The ITER agreement was signed in 2006 by China, the EU, India, Japan, South Korea, Russia and the US, and building of the tokamak has been underway in France since 2010. The official start of ITER operation is scheduled for December 2025.⁵¹ Euratom also funds DEMO which is a demonstration fusion power reactor planned to follow ITER by 2050.⁵²

The UK is a key participant in ITER and sends information, results and design studies from its JET programme to the French site. This cooperation will continue throughout the Brexit process but it is unclear what the impact of Brexit will be on this cooperation and the continuation of these programmes.

⁵⁰ WMS, 27 June 2017, [HCWS13](#)

⁵¹ ITER, '[When Will ITER Be Operational?](#)', Accessed 22 June 2017.

⁵² EUROfusion, '[Preparing for ITER and Developing DEMO](#)', Accessed 22 June 2017.

4. Press Articles

FT [subscription]

[Euratom matters to the UK](#)

Britain is a deeply embedded part of the wider European nuclear industry

Andrew Ward 6 July 2017

Telegraph

[Is leaving Euratom in our interests, or even necessary?](#)

Tom Greatrex 4 July 2017

Guardian

[PM's European court stance has 'hamstrung' Brexit negotiations](#)

Heather Stewart 30 June 2017

The Economist

[What if Britain crashes out of Euratom?](#)

The Brexit-related decision on atomic energy could cause chaos

4 May 2017

Independent

[Government's Brexit plan risks 'severe ramifications' for nuclear industry, MPs' report warns](#)

Ministers have already pledged to pull out of the EU's nuclear standards and research agency Euratom

Joe Watts 1 May 2017

Bloomberg.com

[Brexit May Threaten Cancer Treatments and Hinkley Point Plant](#)

Alex Morales 23 February 2017

Bruegel.org blog

[Brexit goes nuclear: The consequences of leaving Euratom](#)

The UK Government has confirmed that it will withdraw from Euratom. But what does Euratom actually do? And what will happen when the UK leaves? The authors find major risks, potential costs and open questions.

Enrico Nano and Simone Tagliapietra 21 February 2017

Times [subscription]

[Brexit 'must not mean upheaval in nuclear power'](#)

Marcus Leroux 16 February 2017

World Nuclear News

[Brexit and Euratom: No rush to exit?](#)

As the UK government moves towards the formal process to exit the EU, Jonathan Leech and Rupert Cowen consider the implications of Brexit for the nation's membership of the European Atomic Energy Community (Euratom).

20 January 2017

Guardian

[Austria files legal complaint against UK's Hinkley Point C nuclear plant](#)

Country takes row over subsidies to European court of justice amid concerns UK project could distort energy market

6 July 2015

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