



**“ASSESSING EURATOM – 50 YEARS OF COMMUNITY NUCLEAR POLICY
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Mark Johnston, Greenpeace European Unit
www.greenpeace.eu

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(Madam) Chairman,

This contribution focuses on five main points:

1. Euratom is a pro-nuclear organisation;
2. Euratom is out of date
3. Euratom is undemocratic;
4. Euratom is not separate from rest of the European Community legal order;
5. Euratom must be scrapped by the next Inter-Governmental Conference.

1. A pro-nuclear organisation

Euratom Article 1 clearly states that the task of the Atomic Energy Community shall be to create ...

*“... the conditions necessary for the speedy establishment
and growth of nuclear industries”.*

Although the last five decades have shown that Euratom has not been successful in achieving what was imagined by some at the start¹, nevertheless Article 1 shows that its main purpose is unambiguous. Moreover, whilst the other EU treaties have evolved over the years to reflect changing needs and to develop a more political Europe, the ten substantive chapters of Euratom have remained frozen in time.

The first community, the Coal and Steel Community, was established for fixed period of fifty years. It expired in 2002 without any difficulties, and with some functions such as state aid control being taken over by the EC treaty. Euratom does not contain an expiry clause. Without political intervention, it would continue indefinitely.

¹ See, e.g., the useful Working Paper: “*The European Parliament and the Euratom Treaty: Past, Present and Future.*”, European Parliament DG Research ENER114, 2001

2. *Out of date*

Two reasons:

(i) Euratom has a dual role both to regulate and to promote nuclear energy. This can lead to potentially dangerous conflicts of interest.

That public administrations should not combine these two functions within the same political authority is today a well developed concept. Why is this not done with Euratom?

Example: the United States Atomic Energy Commission, created around the same time as Euratom and with the same double remit, was replaced in 1974 by the Nuclear Regulatory Commission, which focuses only on regulation.

(ii) granting a special status in the basic law to one fuel source over all others distorts effective comparisons between energy options. Europe is formally obliged to promote nuclear, while all other options get less attention.

3. *Undemocratic*

Euratom is also lacks democratic control, as the European Parliament is almost entirely excluded from decision making. Apart from the budget, not a single piece of Euratom legislation is subject to co-decision making. Worse still, Parliament is required to be consulted in only one out of ten of Euratom's substantive chapters.² For Euratom research programmes under Chapter 1, Parliament is sent the proposal not because of any treaty requirement, only because the Council chooses to.

4. *A single legal order*

Some supporters of Euratom often claim that Euratom law acts in effect as a 'Chinese Wall', insulating the nuclear sector from the application of the *Acquis* established by the *European* Community. This is not true.

In the EC Treaty, Article 305 only affords precedent to Euratom in those areas where Euratom has competence. But in those areas where this is not so, for example in the internal market and in environment and competition fields, then European Community law applies.

On the particular question of meeting the large long-term costs of decommissioning nuclear power plants and managing radioactive waste after electricity generation has ended, there is a compelling case – using EC law - for harmonisation at the European level.

The current funding arrangements for decommissioning vary widely. For some firms, their reserve funds are simply too small. Other firms that have reserves but are subject to different rules in different places. Some firms are, contrary to the polluter pays principle, already receiving state aids for radioactive waste management. Elsewhere, there are other distortions in the power market stemming from the lack of independent assessments of plans and forecasts, and - in some cases - from the failure even to separate such funds from day-to-day cash flow.

² This does not include Article 203, which is the 'any other business' clause in Title V.

Consequently, the forthcoming electricity directive must, as well as unbundling network ownership, include new laws to ensure that all European nuclear undertakings have sufficient funds set aside to meet all post-closure liabilities. There is no need to draft such a law, as the Commission has already done so when it published a non-binding recommendation on the subject last year.

5. *The next IGC*

The convention on the inter-governmental conference that together drew up the constitutional treaty in 2004 acted in haste, driven by the deadlines of enlargement and elections in that year. Many important reform issues were not addressed. The settlement then left the constitutional and Euratom treaties to exist alongside each other.

In the French referendum on the EU constitution, some in the 'no' camp exploited this situation to obvious effect. In other member states, there is also a growing sentiment which asks rightly: "Why should I support Europe, when Europe promotes nuclear?"

The next IGC, starting possibly later this year, must not repeat mistakes of the past. Five member states, including Germany, the current holder of the presidency, have already said³ they want Euratom opened for reform. So too has the European Parliament. Several other states are known to support reform but have not spoken out, in part due to the timing issues that I referred to.

Greenpeace calls on all EU governments to use the opportunity of the forthcoming IGC to see that Euratom finally is scrapped.

In fact, this is not hard to do, and particularly if we start preparing now. We should remind ourselves that the Laeken mandate in 2001 that led to the constitution called for a simplification and consolidation of the treaties.

In 2003, the Commission's so-called *Penelope* draft constitution reduced Euratom from ten chapters to five with, for example, research and external relations functions being combined into the main treaty (and thus being made more accountable).

Greenpeace believes it is necessary to go further still. Only two of Euratom's ten chapters, Chapter 3 on radiological protection and Chapter 7 on material safeguards, need to be retained. Both functions could, for example, be added to a new constitutional treaty, whilst the remaining eight chapters and the overall promotional remit are repealed and discarded.

A new European Constitution must have meaning and value for Europe's citizens. This could not happen if it were still to be contaminated by Euratom.

Thank you.

³ IGC Declaration 44 (by DE, AT, IR, SE and HU) attached to the Constitutional Treaty.