

EUROPEAN PARLIAMENT

2004



2009

Session document

FINAL
A6-0129/2007

4.4.2007

REPORT

on Assessing Euratom – 50 Years of European nuclear energy policy
(2006/2230(INI))

Committee on Industry, Research and Energy

Rapporteur: Eugenijus Maldeikis

CONTENTS

	Page
MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION.....	3
EXPLANATORY STATEMENT.....	13
OPINION OF THE COMMITTEE ON CONSTITUTIONAL AFFAIRS.....	17
PROCEDURE.....	21

MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on Assessing Euratom – 50 Years of European nuclear energy policy (2006/2230(INI))

The European Parliament,

- having regard to the Treaty establishing the European Atomic Energy Community, signed in Rome on 25 March 1957 (the Euratom Treaty),
- having regard to the Euratom Treaty’s preamble, referring to its original purpose of establishing a European Atomic Energy Community (Euratom) ‘creating the conditions necessary for the development of a powerful nuclear industry which will provide extensive energy resources, lead to the modernisation of technical processes and contribute, through its many other applications, to the prosperity of [the] peoples’,
- having regard to the case-law of the Court of Justice of the European Communities and in particular its ruling of 14 November 1978¹, its judgment of 22 April 1999² and its judgment of 10 December 2002³,
- having regard to the Commission Communication of 10 January 2007 ‘An Energy Policy for Europe’ (COM(2007)0001),
- having regard to the Commission Communication ‘Nuclear Illustrative Programme – presented under Article 40 of the Euratom Treaty for the opinion of the European Economic and Social Committee’ (COM(2006)0844),
- having regard to its resolution of 14 December 2006 on a European strategy for sustainable, competitive and secure energy - Green paper⁴,
- having regard to its resolution of 23 March 2006 on security of energy supply in the European Union⁵,
- having regard to its position of 14 December 2006 on the proposal for a Council regulation establishing an Instrument for Nuclear Safety and Security Assistance⁶,
- having regard to its position of 5 July 2006 on the proposal for a Council directive on the supervision and control of shipments of radioactive waste and nuclear spent fuel⁷,

¹ Ruling in Case 1/78, ECR 1978, p. 2151.

² Case C-161/97 *Kernkraftwerke Lippe-Ems GmbH v Commission of the European Communities* ECR 1999, p. I-02057.

³ Case C-29/99 *Commission of the European Communities v Council of the European Union* ECR 2002, p. I-11221.

⁴ Texts Adopted, P6_TA(2006)0603.

⁵ OJ C 292 E, 1.12.2006, p. 112.

⁶ Texts Adopted, P6_TA(2006)0599.

⁷ Texts Adopted, P6_TA(2006)0300.

- having regard to its position of 15 June 2006 on the proposal for a Council decision concerning the seventh framework programme of the European Atomic Energy Community (Euratom) for nuclear research and training activities (2007 to 2011)¹,
 - having regard to its position of 30 November 2006 on the proposal for a Council regulation (Euratom) laying down the rules for the participation of undertakings, research centres and universities in actions under the Seventh Framework Programme of the European Atomic Energy Community and for the dissemination of research results (2007-2011)²,
 - having regard to its position of 30 November 2006 on the proposal for a Council decision concerning the specific Programme implementing the seventh Framework Programme (2007-2011) of the European Atomic Energy Community (Euratom) for nuclear research and training activities³,
 - having regard to its position of 30 November 2006 on the proposal for a Council decision concerning the Specific Programme to be carried out by means of direct actions by the Joint Research Centre implementing the Seventh Framework Programme (2007-2011) of the European Atomic Energy Community (Euratom) for nuclear research and training activities⁴,
 - having regard to its position of 16 November 2005 on the proposal for a Council regulation on the implementation of Protocol No 9 on the Bohunice V1 nuclear power plant in Slovakia, as annexed to the Act concerning the conditions of accession to the European Union of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia⁵,
 - having regard to its resolution of 16 November 2005 on the use of financial resources earmarked for the decommissioning of nuclear power plants⁶,
 - having regard to the deliberations of the public hearing on the subject, held by the Committee on Industry, Research and Energy on 1 February 2007,
 - having regard to Rule 45 of its Rules of Procedure,
 - having regard to the report of the Committee on Industry, Research and Energy and the opinion of the Committee on Constitutional Affairs (A6-0129/2007),
- A. whereas, although the treaties have repeatedly undergone thorough revision in the light of new needs and challenges, the Euratom Treaty has been amended only once in its 50-

¹ Texts Adopted, P6_TA(2006)0266.

² Texts Adopted, P6_TA(2006)0517.

³ Texts Adopted, P6_TA(2006)0524.

⁴ Texts Adopted, P6_TA(2006)0523.

⁵ OJ C 280 E, 18.11.2006, p.108.

⁶ OJ C 280 E, 18.11.2006, p.117.

year history¹ and, in that time, its core provisions and substance have remained unchanged,

- B. whereas, although the Euratom Treaty has been modified only slightly in the last 50 years, it has given rise to a substantial volume of secondary legislation over the same period and has been the subject of a considerable number of judgments handed down by the Court of Justice of the European Communities which have, for example, substantially broadened the original scope of the Euratom Treaty,
- C. whereas the Euratom Treaty introduced stringent safety standards for the handling of radioactive fuel elements and waste in the European Union, lays down uniform safety standards for protecting the health of workers and of the public as well as procedures for the implementation of those standards, and opposes any proliferation of nuclear material for military purposes,
- D. whereas the Euratom Treaty offers a comprehensive and coherent legal framework for the use of nuclear energy in Europe under safe conditions for the benefit of all the Member States,
- E. whereas several Member States have never developed the nuclear option, others have an active phase-out policy and others continue to support their nuclear sector,
- F. whereas, in its draft Treaty establishing a Constitution for Europe (the Constitutional Treaty), the Convention proposed that the Euratom Treaty should be separated from the legal structure of the future Constitution; whereas the Convention, in its work on the future of the European Union and the signing of the Constitutional Treaty, has maintained the provisions of the Euratom Treaty in their present state in the form of an annexed protocol,
- G. whereas Germany, Ireland, Austria, Hungary and Sweden have annexed to the Constitutional Treaty a declaration noting that the core provisions of the Euratom Treaty need to be brought up to date and calling for a revision conference to be convened 'as soon as possible',
- H. whereas the recent round of enlargement has increased the diversity of the European Union's landscape in the area of nuclear energy and the need for Community action in the nuclear domain,
- I. whereas the 50th anniversary of the Euratom Treaty provides Parliament with the opportunity of considering its content and relevance and expressing its concern that the main provisions of the Euratom Treaty have not been amended since it entered into force 50 years ago,
- J. whereas these reflections on the permanence of the Euratom Treaty are indissociable from the aims that the Commission is pursuing in favour of a European policy for a safer, more sustainable and more competitive form of energy, contributing to the fight against

¹ By means of the Treaty on European Union signed in Maastricht on 7 February 1992.

climate change, as set out recently in the above Commission Communication of 10 January 2007,

50 years with the Euratom Treaty

1. Points out that, since 1957 and the signing of the Euratom Treaty, the European Union has become the world leader in the nuclear industry and one of the main actors in nuclear research in the fields of controlled thermonuclear fission and fusion; notes that the European industry is present throughout the nuclear fuel cycle and has developed local technologies, some of which, such as enrichment through ultracentrifugation, are the fruit of partnerships at European level;
2. Notes that the European Union's nuclear industry's almost total command of the fuel cycle offers the Union, at this time of debate on energy dependence, guarantees of industrial and technological independence, particularly as regards fuel enrichment;
3. Points out that, thanks in particular to the Euratom Treaty, nuclear energy was in late 2006 producing, from 152 reactors spread across 15 Member States, 32 % of Europe's electricity, that is, the largest share of non-carbon electricity in the European Union and one of its most competitive sources, such as to contribute to the aims of an energy policy for Europe, as set out in the above Commission Communication of 10 January 2007;
4. Points out, as regards combating climate change, that the Commission, in its Green Paper 'Towards a European strategy for the security of energy supply' (COM(2000)769) estimated that nuclear energy would save more than 300 million tonnes of CO₂ emissions in 2010, 'the equivalent of the CO₂ emissions produced by some 100 million cars'; recalls that, in Annex I of its Communication of 10 January 2007, the Commission considered nuclear to be the least carbon-producing source of energy after offshore wind and small-scale hydropower;
5. Notes that the founder countries of Euratom laid down a series of provisions in ten chapters with the aim of strictly containing the development of nuclear energy within the Union, and that those provisions are still applicable and are continually enriched as legislation is adopted on the basis of the Euratom Treaty and make an important contribution to the safe operation of nuclear facilities in Europe;
6. Notes that the 1957 consensus on nuclear energy no longer exists among the Member States;
7. Notes that expectations with regard to nuclear energy, to which the Euratom Treaty gave expression five decades ago, have changed; notes that those expectations now relate more to the need to have, in the form of the Euratom Treaty, a sound legal framework to govern the supervision of the use of nuclear energy in the European Union and to provide a framework for the integration into the European Union of countries which use nuclear power, through the transposition of the Euratom *acquis communautaire*; acknowledges that significant chapters in Title II of the Euratom Treaty have made it possible to protect the public, workers and the environment against ionising radiation (Chapter 3), to develop research in the areas of waste management and plant safety

(Chapter 1) and to implement safeguards in respect of fissile materials in Europe (Chapter 7);

8. Points out that initial research activities were first developed under the Euratom Treaty's framework (Chapter I), and that this also led to the creation of the Joint Research Centre, the first EU research establishment; urges the inclusion of a nuclear research and development programme in the general research framework programme budget, subject to the same scrutiny and duty of public accountability as all other research programmes;
9. Considers that the legislation developed under Chapter III of the Euratom Treaty (on health protection) must remain under the responsibility of the European Union in order to ensure that basic standards for the protection of workers and the general public are applied and expanded to include the environment, and that it takes account in an evolutionary way of the results of international scientific studies;
10. Points out that the scope of such legislation is not confined to the regions where nuclear plants operate but now also includes the protection of neighbouring Member States and countries outside the European Union, as a result of the constant checks on discharges of radioactive waste and the adoption of rules on the transfer of spent fuels and radioactive waste, on protection of the food chain, and on radiological emergencies;
11. Notes that Chapter IV of the Euratom Treaty (on investment) was designed to obtain detailed information, at Community level, on the Member States' investment plans;
12. Notes, however, that when publishing its Illustrative Nuclear Programmes (PINCs) the Commission did not really assess nuclear investment needs with particular regard to the problems of security of energy supply, the fight against climate change and the European Union's competitiveness in the light of the worldwide revival of the nuclear industry;
13. Welcomes, however, the existence in the Euratom Treaty of the requirement to provide details of any new investment in Europe in the nuclear domain, thus making it possible to have a complete cartography of the European Union's nuclear activities – a requirement specific to the European nuclear industry;
14. Considers that joint undertakings (Chapter V of the Euratom Treaty) will have been valuable instruments for implementing public policies, particularly in the research field, where this legal instrument has been used on a number of occasions, particularly with the establishment of the Joint European Torus at Culham in 1978 and, more recently, the introduction of the European Legal Entity to implement the International Thermonuclear Experimental Reactor (ITER);
15. Considers that the Euratom Treaty has at its disposal, with the creation of an Agency (Chapter VI) responsible for supplying users within the Union in accordance with the principle of equal access to materials, an instrument that is essential in these times of preoccupation with security of the energy supply;
16. Considers that safeguards (Chapter VII) are one of the major successes of the Euratom Treaty's application and provide the Commission with the means of ascertaining the stocks and movements of nuclear materials in the European Union;

17. Notes that these safeguards also provide a real guarantee for countries that supply nuclear materials as to the use of those materials, complementing the non-proliferation controls of the International Atomic Energy Agency (IAEA);
18. Notes that, on the basis of Chapter X of the Euratom Treaty (on external relations), the Euratom's accession to a number of international conventions, in particular the Convention on Nuclear Safety and the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management, has enabled the Community to participate in the international effort on these issues and to promote the important advances achieved in the European Union;
19. Notes also that it is on the basis of Chapter X of the Euratom Treaty that the Euratom has concluded a number of cooperation agreements in the field of research, participated in international projects such as the Generation IV International Forum on future nuclear reactors, and conducted the international negotiations on the ITER Project;

Institutional debate

20. Notes that the main provisions of the Euratom Treaty have not been amended since it entered into force on 1 January 1958;
21. Confirms that according to the subsidiarity principle it is for each and every Member State to decide whether or not to rely on nuclear energy;
22. Notes, furthermore, that some Member States which are openly opposed to nuclear energy and have joined the Communities (the European Community and Euratom) have never in any way been required to develop nuclear energy on their territory; notes, accordingly, that it has been accepted for many years that the Euratom Treaty, in promoting nuclear energy, imposes no obligation, but establishes a legal framework for all to use;
23. Emphasises that the Euratom Treaty does not hinder the development of an internal electricity market and is even less of an obstacle to the free movement of goods, persons and capital; points out, in that connection, that the ordinary law laid down by the Treaty establishing the European Community (EC Treaty) applies to nuclear activities and notes, by way of example, that the movement of nuclear materials, equipment and technologies within and outside the European Union is covered by rules on the supervision of dual-use goods, adopted on the basis of the commercial policy laid down in the EC Treaty; adds that Euratom legislation is subject to competition law and regulations on State aid, as specified in Title VI of the EC Treaty; concludes, therefore, that the Euratom Treaty in no way represents a protectionist framework for nuclear energy;
24. Notes that the Euratom Treaty offers countries that have chosen the nuclear option the instruments for its development (joint undertakings, support for research and development, and Euratom loans) but accompanies the provision of these instruments

with a dense legal framework (on health protection, nuclear safeguards and supply), so as to reassure Member States that have not chosen that option;

25. Notes that the Euratom legal framework also applies, for the good of the Community, to Member States that generate no nuclear power but have nuclear research reactors on their territory, and offers such Member States instruments (such as the Euratom research and development framework programmes) enabling them to receive funding, for instance in the field of medical research;
26. Considers that, irrespective of the diversity of views on nuclear energy, the provisions of the Euratom Treaty that have helped prevent the proliferation of nuclear materials, and those which address health, safety and the prevention of radiological contamination, have been highly beneficial and should be carefully co-ordinated with the health and safety provisions of the EC Treaty;

Lacunae

27. Regrets that the growth in Parliament's powers, and particularly their extension to include codecision procedure on the majority of European legislation, has not been taken into account in the Euratom Treaty; considers that, despite the Euratom Treaty's technical nature, Parliament is entitled to be formally involved in texts whose legal basis is the Euratom Treaty;
28. Sees as evidence of an unacceptable democratic deficit the fact that Parliament is almost completely excluded from the Euratom legislative process and that it is consulted, and no more, on only one of the ten chapters of the Euratom Treaty;
29. Notes, however, that the Parliament is associated, by means of an Interinstitutional Agreement, with the negotiations on the framework programme of the Euratom for nuclear research and training activities (2007 to 2011) (Euratom FP); also notes, in the light of the documents most recently considered in the European Parliament's Committee on Industry, Research and Energy (Euratom FP, the directive on monitoring crossborder shipments of radioactive waste and spent fuel¹, the Instrument for Nuclear Assistance, etc.) that, although the procedure provides for Parliament only to be consulted, the amendments proposed by the Parliament to Euratom texts are regularly taken into account, in whole or in part, by the Council; does not consider, however, that this can be regarded as sufficient;
30. Highlights the significance of Article 203 of the Euratom Treaty, in that it offers flexibility – as with the creation of the Instrument for Nuclear Cooperation – to undertake legislative initiatives not initially provided for in the Euratom Treaty; considers that there is a need to examine how Article 203 could be used to develop new initiatives and, possibly, to make adjustments to the Euratom Treaty;
31. Regrets the absence of a legislative corpus on harmonised standards with real added value, particularly in comparison with the existing international framework, for

¹ Council Directive 2006/0117/Euratom of 20 November 2006 on the supervision and control of shipments of radioactive waste and spent fuel (OJ L 337, 5.12.2006, p. 21).

nuclear safety, the management of radioactive waste and the decommissioning of nuclear plants;

32. Calls on the Commission to draw on the experience gained from implementing the conventions governed by the IAEA (Convention on Nuclear Safety and the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management) and to take account of the assessments, conducted by the OECD's Nuclear Energy Agency (NEA), of the most advanced national practices in the field of radioactive waste management; notes that concerted initiatives, such as those carried out by the Western Europe Nuclear Regulators Association (WENRA), to develop a joint approach to nuclear safety, are likely to help with drawing up a basis for legislation;
33. Notes that, as confirmed by the abovementioned judgment of the Court of Justice in Case C-29/99 *Commission v Council*, the Commission has powers in the field of nuclear safety under the Euratom Treaty and that it is authorised to put forward proposals in this area;

Guidelines for the future

34. Considers that, despite its imperfections, the Euratom Treaty remains for the moment an indispensable legal framework, not only for Member States who wish to develop their nuclear industry but also for Member States who merely wish to benefit from a protective legal arsenal for themselves, their populations and their environment;
35. Points out that the provisions of the Euratom Treaty are at the heart of the debate on industrial issues, in connection with the Lisbon Strategy, and energy issues (particularly from the supply angle), at a time when the European Union is seeking to define a European energy mix that is low-carbon, competitive and as far as possible 'home-grown';
36. Reiterates, in this connection, that nuclear energy currently provides the European Union with 32% of its electricity, and that the Commission considered it in its communication of 10 January 2007 to be one of the main CO₂-free sources of energy in Europe, and the third-cheapest in Europe, without internalisation of CO₂ costs; considers, therefore, that the European Union, in line with the Euratom Treaty, should defend its industrial and technical leadership in the light of the vigorous revival by other actors of their nuclear activities (Russia, USA) and the emergence of new world actors on the nuclear stage (China and India) which will be the European Union's competitors in the medium term;
37. Considers that the absence of the legal framework provided by the Euratom Treaty would lead to the renationalisation of nuclear policy in Europe, which would be a setback for the *acquis communautaire*, and would give rise to a risk of legal uncertainty for all the 27 Member States;
38. Calls for the principles of fair competition and a level playing field for different energy sources to be respected;

39. Considers also that deleting one or more chapters from the Euratom Treaty or merging certain provisions into the EC Treaty would unbalance the Euratom Treaty as a whole by weakening supervision of nuclear energy use in Europe; adds that the absence of a coherent legal framework would make it far more complicated for future Member States to take on the Euratom acquis;
40. Considers that supervision of nuclear energy use in Europe, in view of the very specific characteristics of this energy source, requires the maintenance of a dedicated legal framework such as the Euratom Treaty, which for 50 years has demonstrated the usefulness of all its provisions; adds that its partial incorporation into a hypothetical chapter on 'Energy' in the EC Treaty would weaken the overall legal supervision of nuclear energy in Europe and remove the specific nuclear control procedures contained today in the Euratom Treaty;
41. Considers, nevertheless, that the Euratom Treaty needs to be somewhat reformed;
42. Considers that, irrespective of the possibility of making short-term adjustments, a comprehensive revision of the Euratom Treaty is necessary in order to make good the democratic deficit and to put common safety and security issues at the centre of the nuclear activities of the Union and its Member States;
43. Calls for rejuvenation of the decision-making procedures in the Euratom Treaty, which would enable Parliament to be closely involved in legislative procedures in the nuclear field and would allow it to achieve greater transparency and to fully involve Union citizens; therefore asks the Council and the Commission to address the democratic deficit inherent in the Euratom Treaty and extend the co-decision procedure to legislation adopted under it;
44. Considers that these changes could be made by means of Article 203 of the Euratom Treaty, without necessarily disrupting the Treaty's general structure and content; calls on the Council to consider this opportunity;
45. Points out that, in the context of a need to adapt European energy policy and extend the working lives of power stations, there is an urgent need to draw up robust legislation and adopt concrete measures at Community level in the fields of nuclear safety, the management of radioactive waste and the decommissioning of nuclear plants and to take steps to ensure that research and development promoting the safe use of nuclear energy receives as much attention and support as possible; invites the Commission to review the relevant drafts of its legislative proposal and submit new proposals for directives on the safety of nuclear facilities, on waste management, and on closure and decommissioning of nuclear facilities taking into account the 'polluter-pays' principle;
46. Urges the Commission and Council to look into this question with all due speed and to work on it in close consultation with Parliament;
47. Calls for the development of teaching and training programmes at European level in the nuclear field and for measures to secure the funding of ambitious research programmes, so as to respond to the challenges in the areas of fission (safety, waste management, future reactors) and radiological protection and provide the necessary

maintenance of the appropriate powers and human resources in order to keep the nuclear option open on the basis of a sustainable and competitive European industry;

48. Calls for a European coordination mechanism of best national practices to protect workers and the public from radiation so as to complement the harmonisation already achieved in this sector by the Euratom Treaty;
49. Strongly encourages the Commission to draw up at regular intervals, as the Euratom Treaty provides, really forward-looking PINCs for nuclear production and investment targets, in the global context of increasing competition in this sector, which would also take into consideration the aims of reducing greenhouse gas emissions; notes in this connection that the use of all other energy sources is also a matter for national competence but that targets (sometimes even binding targets) are nevertheless set at Community level, as is the case with renewables;
50. Invites the Council, bearing in mind the objective of security of supply and targets to reduce CO₂ emissions, to define a coordinated policy that would encourage investment, in full compliance with safety requirements, aimed at extending the life of and improving the performance of existing reactors, as well as investment in new capacities;
51. Notes the Council initiative to envisage the setting up a High-Level European Group for nuclear safety, security and waste management;
52. Welcomes the initiative to set up a European Nuclear Forum to facilitate a high-level debate involving politicians, industry and civil society;
53. Calls for the role of the Euratom Supply Agency to be revived and for the powers conferred upon it by the Euratom Treaty to be used in full; considers that that role should be regarded less from the point of view of a uranium shortage but rather from the point of view of competitiveness and security of supplies, including the supply of fabricated nuclear fuel; considers that the provisions of the Euratom Treaty give it the means of becoming a proper energy observatory in the nuclear field, and to that end encourages the current thinking on improving the status of the Euratom Supply Agency;
54. Calls for the continuance of intense international cooperation, for which the Euratom Treaty has prepared the ground, and calls for continued strengthening of cooperation with the IAEA, to avoid any redundancy in the respective actions of that agency and of the Euratom, and to secure the highest possible level of protection in the fields of radiological protection, nuclear safety and nuclear non-proliferation;
55. Calls for international collaboration on research and development, such as on the ITER project or in the Generation IV International Forum, to be continued at a high level;
56. Instructs its President to forward this resolution to the Council and Commission.

EXPLANATORY STATEMENT

After 50 years of application of the Treaty establishing the European Atomic Energy Community ('the Treaty'), and now that reflection is under way on defining a European energy policy, the rapporteur is called upon to consider whether the Treaty is today suited to the present situation of nuclear energy in the European Union and whether it provides the tools needed to meet the energy challenges of the future.

At first sight the Euratom framework would seem to be outmoded in form, as its institutional organisation has not kept up with the evolving European Union. Designed originally as an instrument for 'operational integration', it may to some extent seem equally outmoded in content, as some of its provisions have fallen into disuse or have not been applied in accordance with the Treaty's original intentions.

But the rapporteur believes that the Treaty's limitations should not hide the fact that some of its provisions are more relevant than ever, and have led to the adoption of an abundant body of derived regulation. Far from being a 'promotional' treaty, it is a set of rules that constrains the operation of the nuclear industry. So this report will examine how far the Treaty remains a suitable legal framework for tightening up the rules in areas that are still neglected – such as the adoption of common standards for safety and radioactive waste management – and whether it can contribute to Europe's economic competitiveness, its energy independence and its security of supply.

I – The Treaty is a proven and balanced framework for developing a competitive nuclear industry.

- *50 years of initiatives and ambitious achievements prove the Treaty's balance and effectiveness.*

– The Treaty has enabled nuclear energy to become a major component in Europe's energy mix, and is also recognised today as a way of avoiding some 312 million tonnes of CO₂ per year (7 % of the EU's total greenhouse gas emissions).

With energy production of nuclear origin of more than 920 TWh in 2005, the EU represents a third of the world's electronuclear capacity, estimated at 2470 TWh. The Community average amounts to 32 % of electricity of nuclear origin and covers a wide variety of situations: 15 Member States have nuclear power stations, which for some of them are their main source of electricity. The European industry covers all of the fuel cycle, with the development of local technologies (for fuel enrichment, reactor design, and the recycling and processing of spent fuel). In the rapporteur's view this is a conspicuous aspect of the European nuclear landscape, particularly in the context of the current international debate on the cycle's 'multilateral approaches'.

– In the area of research, the incentive effect of the six Euratom JPRD has maintained European research as a world leader, particularly in the field of controlled fusion.

- *Many of the Treaty's provisions are proof of its vitality and adaptability.*
- **A health protection concern that has become a priority**

The Treaty states that the EAEC should ‘*establish uniform safety standards to protect the health of workers and of the general public and ensure that they are applied*’. This chapter has given rise to an abundant body of derived legislation forming the framework for the Member States’ national rules on radiological protection: the adoption of common ‘basic standards’, fixing maximum permissible levels of radioactive contamination for foodstuffs, arrangements for exchanging information and radiological emergency situations, monitoring radioactivity in the environment and the disposal of radioactive waste from nuclear plants, and the protection of aircrews in civil aviation.

– **Monitoring the safety of nuclear materials to complement action by the International Atomic Energy Agency (IAEA)**

Chapter VII sets up a comprehensive system of controls to ensure that ores and special fissile materials are not diverted from their intended uses as declared by the users.

This security control, which is based on a system for declaring the accounts for materials held by the operators, is run in conjunction with the *Safeguards* scheme applied by the IAEA under tripartite agreements concluded with the Member States and the Euratom Community. As part of the tightening-up of the non-proliferation scheme with the conclusion in 1998 of Additional Protocols to these safeguard agreements, Euratom regularly sends the IAEA accounting records for nuclear materials held by the Member States. The rapporteur considers that these two systems have proved their complementary nature, and that if improvements need to be sought they should be sought in a practical way in the sharing of methods for investigation and the conduct of inspections, to avoid any duplication of effort.

– **An intense external policy that has in a pragmatic way compensated for the Treaty’s shortcomings**

Euratom has, within the framework of its powers, developed a substantial network of international agreements:

– with international organisations: Euratom has acceded to most of the conventions adopted under the aegis of the IAEA. This complementary approach is due to the fact the recommendations, treaties and agreements that the IAEA draws up concur with the corresponding policies of Euratom, whose observer status with the IAEA has resulted in establishing relations informed by an active partnership.

– on a bilateral basis: historically, Euratom’s relations have concentrated on agreements with its three main suppliers of nuclear materials and technologies: Canada, Australia and the United States, and these agreements have subsequently been extended to include the fields of safety and nuclear research. They are today more properly reciprocal cooperation agreements (with Japan, Argentina, Kazakhstan and Ukraine) in the fields of safety, control of nuclear materials, combating their trafficking, and research into controlled nuclear fusion (under the ITER legal framework). It is also as a result of the chapter on external relations that Euratom has played a very active role in the successive stages of enlargement (in the PHARE Programme).

The rapporteur considers that this is one of the major aspects of the Euratom system and by its very vitality is proof that the Treaty is still up to date.

II – But inadequate legal adaptation and some shortcomings are behind Euratom’s evident

weaknesses.

– **The democratic deficit**

The institutional imbalance must be restored in favour of Parliament, which should be accorded a codecision power on matters under the Treaty. The rapporteur underlines the by no means negligible importance of Parliament's contribution. Even if it is only consulted, its intervention in the debates has proved to be decisive on repeated occasions, whether dealing with stalemates such as over the adoption of the Seventh Euratom R&D Framework Programme, or in the negotiations on the Transfers Directive or through its amendments to the Nuclear Cooperation Instrument.

– **Adoption of common safety standards throughout the EU, management of radioactive waste and securing the funding of long-term costs**

In 2003 a regulation was proposed to define the organisational principles for proper safety management and mobilise sufficient financial resources for the operation and decommissioning of plants. In the absence of a consensus, in 2004 the Council adopted a convergence process for an Action Plan up to 2006, based on an ad hoc formation, the Working Party on Nuclear Safety (WPNS).

The rapporteur notes that the Working Party's recommendations endorse those of the PINC Project announced on 10 January 2007 and considers that, at the very least, the idea of setting up a High-Level Group on Nuclear Safety should be supported. To legislate in these areas does not require an in-depth revision of the Treaty, as Article 203 provides a sufficient legal basis for adopting new measures.

III – The Treaty must enable us to meet the energy challenges of the future

If the tools intended to safeguard the development of nuclear energy have not worked as the Treaty's founders expected, the rapporteur considers that the Treaty's future is not in doubt and the need is now to give full effect to its existing provisions.

– **The common illustrative nuclear programmes (PINC)**

Several PINCs have been published by the Commission, in 1966, 1972, 1984, 1990 and 1997. The rapporteur deplores the fact that the voluntary and programming character of the PINC has disappeared and that the programme has not played its expected role.

The rapporteur notes that the latest PINC project does not seem any closer to setting up a forward-looking view for adapting nuclear industrial capacity to the aims of the Community's energy policy, or for the investment needed in R&D structures in the fields of nuclear safety and the management of radioactive waste. If need be, the rapporteur recommends that this forward-looking assessment should also envisage the tools required to carry it out (notably by means of Euratom loans).

– **The Supply Agency's powers must be revived in a context of market liberalisation**

Euratom's purpose is to ensure the regular and equitable supply of ores and nuclear fuels to all Community users (Euratom has the exclusive right to conclude contracts for the supply of nuclear materials, a right of option on fissile minerals and materials produced on the territory of the Member States, and organisation of the Supply Agency on a commercial basis).

As things stand, the Agency's powers have been reduced in the case of its exclusive right to conclude agreements, and some Member States have set up simplified procedures with the Agency, with the result that it is today confined to a recording role. The Agency's purpose must be revived, with the aim of securing energy supplies.

As with several other chapters in the Treaty, its updating is made possible in a practical way since it includes its own revision mechanism. The rapporteur sees this as an opportunity to turn it into a nuclear energy observatory, on the lines of the Commission's recommendation for the European energy policy.

Conclusions on the institutional debate and the Treaty's future

For all of the above reasons, the rapporteur concludes that:

- the Treaty needs to be consolidated, primarily because it has proved its effectiveness and there is a need to take account in the various energy scenarios of nuclear energy's contribution to security of supply and the fight against climate change;
- the Euratom institutional apparatus should put Parliament back at the centre of negotiations;
- there is an urgent need for implementation of the Treaty to cover new fields of activity, and the foundations for adjustments of this kind are already present in the Treaty;
- the Treaty should provide the conditions required to fund R&D in the fields of safety, radioactive waste management and future generations of reactors, and to develop teaching and training programmes, which will guarantee nuclear energy's place in the energy mix;
- the Treaty should help to define a coordinated policy and one that will encourage investment: it has the appropriate tools for ensuring that the market is monitored, and for recommending maintenance of the necessary conditions for fulfilment of the EU's energy policy.

23.3.2007

OPINION OF THE COMMITTEE ON CONSTITUTIONAL AFFAIRS

for the Committee on Industry, Research and Energy

on Assessing Euratom – 50 years of European nuclear energy policy
(2006/2230(INI))

Draftsman: Johannes Voggenhuber

SUGGESTIONS

The Committee on Constitutional Affairs calls on the Committee on Industry, Research and Energy, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

- A. whereas, although the EU Treaties have repeatedly undergone thorough revision in the light of new needs and challenges, the Euratom Treaty has been amended only once¹ in its 50-year history and, in that time, its core provisions and substance have remained unchanged,
- B. whereas, although the Euratom Treaty has been modified only slightly in the last 50 years, it has given rise to a substantial volume of secondary legislation over the same period and has been the subject of a considerable number of judgments handed down by the Court of Justice of the European Communities which have, for example, substantially broadened the original scope of the Treaty,
- C. whereas the recent round of enlargement has increased the diversity of the European Union's landscape in the area of nuclear energy and the need for Community action in the nuclear domain; whereas 11 of the 27 Member States have never had a nuclear power station on their territory; and whereas Italy has abandoned electricity generation using nuclear energy, and Belgium, Germany, the Netherlands and Sweden have decided to take a similar step,
- D. whereas, as long ago as 18 June 1998, in its resolution entitled 'Resolution on the Commission communication: Energy for the future: renewable sources of energy - White Paper for a Community Strategy and Action Plan', Parliament called on the Council 'during a future review of the EU Treaty, to incorporate in the Treaty a chapter devoted to

¹ By means of the Treaty on European Union signed in Maastricht on 7 February 1992.

energy, with appropriate account being taken of the promotion of renewable energy sources in order to ensure that a permanent and environmentally sound energy policy will be pursued at European level'¹,

- E. whereas, in its draft Treaty establishing a Constitution for Europe (the Constitutional Treaty), the Convention proposed that the Euratom Treaty should be separated from the legal structure of the future Constitution; whereas the Convention, in its work on the future of the European Union and the signing of the Constitutional Treaty, has maintained the provisions of the Euratom Treaty in their present state in the form of an annexed protocol,
- F. whereas Parliament, in its resolution of 24 September 2003 entitled 'European Parliament resolution on the draft Treaty establishing a Constitution for Europe and the European Parliament's opinion on the convening of the Intergovernmental Conference (IGC)', welcomed this separation and urged the Intergovernmental Conference 'to convene a Treaty revision conference in order to repeal the obsolete and outdated provisions of [the Euratom] Treaty, especially those relating to the promotion of nuclear energy and the lack of democratic decision-making procedures'²,
- G. whereas Germany, Ireland, Austria, Hungary and Sweden have annexed to the Constitutional Treaty a declaration noting that the core provisions of the Euratom Treaty need to be brought up to date and calling for a revision conference to be convened 'as soon as possible',
- H. whereas the Euratom Treaty introduced stringent safety standards for the handling of radioactive fuel elements and waste in the European Union, lays down uniform safety standards for protecting the health of workers and of the public as well as procedures for the implementation of those standards, and opposes any proliferation of nuclear material for military purposes,
 - 1. Notes that expectations with regard to nuclear energy, to which the Euratom Treaty gave expression five decades ago, have changed; notes that those expectations now relate more to the need to have, in the form of the Euratom Treaty, a sound legal framework to govern the supervision of the use of nuclear energy in the European Union and to provide a framework for the integration into the European Union of countries which use nuclear power, through the transposition of the Euratom *acquis communautaire*; acknowledges that significant chapters in Title II of the Euratom Treaty have made it possible to protect the public, workers and the environment against ionising radiation (Chapter 3), to develop research in the areas of waste management and plant safety (Chapter 1) and to implement safeguards in respect of fissile materials in Europe (Chapter 7);
 - 2. Sees as evidence of an unacceptable democratic deficit the fact that Parliament is almost completely excluded from the Euratom legislative process and that it is consulted, and no more, on only one of the ten chapters of the Euratom Treaty;
 - 3. Points out that, in spite of the promotional tone of its preamble, the Euratom Treaty does not require any Member State to develop the nuclear option on its own territory, thus

¹ OJ C 210, 6.7.1998, p. 215, paragraph 39.

² OJ C 77 E, 26.3.2004, p. 255, paragraph 14.

respecting Member States' sovereign right to develop their own energy mix;

4. Draws attention to the Treaty of Amsterdam of May 1999, which guarantees Parliament's right of codecision; regrets that the extension of Parliament's powers, and particularly their extension to include the powers of codecision in the majority of Community legislation procedures, has not been taken into account in the Euratom Treaty; considers that, despite the Treaty's technical nature, Parliament should be formally involved in texts whose legal basis is the Euratom Treaty;
5. Emphasises that the Euratom Treaty does not hinder the development of an internal electricity market and, is even less of an obstacle to the free movement of goods, persons and capital; points out, in that connection, that the ordinary law laid down by the Treaty establishing the European Community (EC Treaty) applies to nuclear activities and notes, by way of example, that movement of nuclear materials, equipment and technologies within and outside the European Union is covered by rules on the supervision of dual-use goods, adopted on the basis of the commercial policy laid down in the EC Treaty; adds that Euratom legislation is subject to competition law and regulations on State aid, as specified in Title VI of the EC Treaty; concludes, therefore, that the Euratom Treaty in no way represents a protectionist framework for nuclear energy;
6. Reiterates its call for an intergovernmental conference to be convened to carry out a comprehensive revision of the Euratom Treaty, to repeal the outdated provisions of that Treaty, to maintain the regulatory regime of the nuclear industry at EU level, to revise the remaining provisions in the light of a modern and sustainable energy policy and to incorporate them into the Treaty establishing a Constitution for Europe in a separate energy chapter;
7. Considers that, irrespective of the diversity of views on nuclear energy, the provisions of the Euratom Treaty that have helped avoid proliferation of nuclear materials, and those which address health, safety and prevention of radiological contamination, have been highly beneficial and should be carefully co-ordinated with the health and safety provisions of the EC Treaty.

PROCEDURE

Title	Assessing Euratom – 50 years of European nuclear energy policy
Procedure number	2006/2230(INI)
Committee responsible	ITRE
Opinion by Date announced in plenary	AFCO 12.10.2006
Enhanced cooperation – date announced in plenary	
Drafts(wo)man Date appointed	Johannes Voggenhuber 4.10.2006
Previous drafts(wo)man	
Discussed in committee	22.1.2007 1.3.2007
Date adopted	19.3.2007
Result of final vote	+: 17 -: 0 0: 2
Members present for the final vote	Philip Dimitrov Dimitrov, Andrew Duff, Maria da Assunção Esteves, Bronisław Geremek, Anneli Jäätteenmäki, Sylvia-Yvonne Kaufmann, Jo Leinen, Íñigo Méndez de Vigo, Rihards Pīks, Johannes Voggenhuber
Substitute(s) present for the final vote	Pervenche Berès, Georgi Bliznashki, Elmar Brok, Carlos Carnero González, Gérard Onesta, Georgios Papastamkos, Bogdan Pęk, György Schöpflin, Alexander Stubb
Substitute(s) under Rule 178(2) present for the final vote	
Comments (available in one language only)	

PROCEDURE

Title	Assessing Euratom - 50 years of European nuclear energy policy			
Procedure number	2006/2230 (INI)			
Committee responsible Date authorisation announced in plenary	ITRE 28.9.2006			
Committee(s) asked for opinion(s) Date announced in plenary	AFCO 12.10.2006			
Not delivering opinion(s) Date of decision				
Enhanced cooperation Date announced in plenary				
Rapporteur(s) Date appointed	Eugenijus Maldeikis 12.9.2006			
Previous rapporteur(s)				
Discussed in committee	19.12.2006	30.1.2007	26.2.2007	26.3.2007
Date adopted	27.3.2007			
Result of final vote	+ 41 - 4 0 4			
Members present for the final vote	John Attard-Montalto, Jan Březina, Philippe Busquin, Jerzy Buzek, Giles Chichester, Jorgo Chatzimarkakis, Silvia Ciornei, Pilar del Castillo Vera, Den Dover, Lena Ek, Nicole Fontaine, Adam Gierek, Norbert Glante, András Gyürk, Fiona Hall, Rebecca Harms, Erna Hennicot-Schoepges, Ján Hudacký, Mary Honeyball, Anne Laperrouze, Romana Jordan Cizelj, Eugenijus Maldeikis, Angelika Niebler, Reino Paasilinna, Atanas Papanizov, Francisca Pleguezuelos Aguilar, Miloslav Ransdorf, Vladimír Remek, Herbert Reul, Mechtild Rothe, Paul Rübig, Andres Tarand, Britta Thomsen, Radu Țîrle, Patrizia Toia, Catherine Trautmann, Claude Turmes, Nikolaos Vakalis, Alejo Vidal-Quadras			
Substitute(s) present for the final vote	Alexander Alvaro, Konstantin Dimitrov, Avril Doyle, Robert Goebbels, Satu Hassi, Edit Herczog, Eija-Riitta Korhola, Esko Seppänen, Hannes Swoboda, Lambert van Nistelrooij			
Substitute(s) under Rule 178(2) present for the final vote	Gintaras Didžiokas			
Date tabled	4.4.2007			
Comments (available in one language only)				