

Contribution by Klaus Hänsch to the European Convention, 'Future of the Euratom Treaty' (14 October 2002)

Caption: In the context of the simplification and merger of the Treaties establishing the European Communities, as well as of the drafting of a constitution for the European Union, Klaus Hänsch, Member of the European Parliament, presents to the European Convention a contribution on the future of the Euratom Treaty.

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Future of the Euratom Treaty

The planned simplification and merger of the Treaties, the streamlining of decision-making procedures, the discontinuation of the pillar structure, the conferral on the European Union of legal personality and the drafting of a constitution also raise the question of the future of the Euratom Treaty. The Convention should consider whether and, if so, to what extent that part of the European integration process needs to be brought into line with future EU needs ¹.

I. History of the Euratom Treaty

The European Atomic Energy Community originally came into being in 1957 for two different reasons: firstly, the Contracting States (F, I, D, B, NL and L) regarded nuclear energy as the energy of the future, holding out the promise of growth, prosperity and security of supplies for Europe; secondly, it was considered pivotal and instrumental in further European integration.

The prime objective of the Euratom Treaty is the promotion of nuclear energy.

This includes:

- promotion of research;
- dissemination of information;
- facilitation of investment;
- creation of a common market;
- supply of nuclear fuels to users.

The Euratom Treaty places some aspects of nuclear policy on a Community footing:

- conferral on the Community of sole rights of option and ownership in respect of all fissile material for civilian use (to be exercised by the Supply Agency set up under Euratom);
- protection against improper use of fissile material for military purposes;
- an exclusive right for the Community to conclude supply contracts with third countries;
- establishment of "basic standards" to protect workers and the local public from ionising radiation.

II. Need for reform of the Euratom Treaty

Unlike the EC Treaty, the Euratom Treaty has never been substantially amended. The conditions obtaining at the inception of the European Atomic Energy Community have, however, changed markedly over the last five decades, while some inherent shortcomings have not up to now been eliminated:

- the Euratom Treaty does not grant the European Parliament any codecision powers, merely an advisory role. The Council is not formally required by the Treaty to consult Parliament on substantive issues. Under Article 101 of the Euratom Treaty, moreover, Parliament has no say at all regarding international agreements;
- the Euratom Treaty leaves open many important issues, e.g. making no provision whatever on such important subjects as safety of installations or temporary and final disposal;
- some of the Treaty's key provisions remain wholly or partly unimplemented (e.g. Chapters 6 and 8

regarding property ownership; nor has the Supply Agency ever taken on its intended role);

- there are no provisions on construction and operation of installations or uniform European safety standards. The Treaty only lays down rules regarding worker protection and impact on the local public. It is left to Member States to establish their own safety requirements. The Council has acknowledged the need for coordination and cooperation, in two Resolutions on nuclear safety matters (Nos 722/75 and 618/92) and at the Laeken summit. The standardisation brought about up to now by way of international agreements and the best-practice method is inadequate. (The Commission is preparing draft directives on control of high-activity radioactive sources (as regards safety of nuclear installations, disposal of nuclear waste and decommissioning of nuclear plants), to be submitted in autumn 2002.);

- European rules also need to be arrived at on temporary, intermediate and final disposal. The lack of relevant rules assumes particular significance with eastward enlargement in prospect;

- the European Union's signing of the Kyoto Protocol sets the course for future policy, thus increasing the need to place a coordinated European energy policy on a new footing.

III. Options for reform of the Euratom Treaty

1. A new energy chapter in the Treaty

A chapter on energy would be included in a constitution or a revised operational Treaty. The Euratom Treaty could be annexed to that Treaty.

2. Introduction of the codecision procedure

The minimum to be aimed for should be democratisation of the Treaty, i.e. involvement of the European Parliament. It would make sense to introduce codecision as a rule, with exceptions possible in certain areas. Codecision by the European Parliament must include specific programmes under the EU research budget (with the Euratom framework programme for 2002-2006 having a budget of EUR 1,23 billion), for which the consultation procedure is currently applicable.

3. Additions to the Treaty

Subjects such as nuclear safety and disposal of nuclear waste would be added to the Treaty.

4. Conversion of the Euratom Treaty into an energy treaty

The conversion of the Treaty into an European energy or climate treaty, also to include renewable energy sources, would be a forward-looking move in response to the challenges of our age. Post-Kyoto climate policy would provide both a constant theme in and the legitimacy for such an energy treaty. This would give the Euratom Treaty, with its at times old-world air, a new modernity and purposefulness.

5. Spring clean

Regardless of these reform options, the Treaty provisions are in any event in need of a good "spring clean".

6. Repeal

The Euratom Treaty would be repealed. Such an apparently simple option should be rejected. It would inevitably result in renationalisation of nuclear energy policy (e.g. as regards property ownership). Coordination between Member States on waste disposal or safety issues would be made more difficult, if not impossible.

¹ This contribution is based on a study by Rolf Linkohr, MEP.