

# **Euratom's Economic Importance for Nuclear Power in Europe**

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Copenhagen, 23<sup>rd</sup> September  
2005

# What is the Euratom Treaty?

- A founding Treaty of the EU (1957)
- As with the Coal and Steel Treaty designed to support a specific technology
  - *Recognising that nuclear energy represents an essential resource for the development and invigoration of industry.*
  - *Resolved to create the conditions necessary for the development of a powerful nuclear industry.*

# Chapters of Euratom Treaty

- Chapter 1: Promotion of research
- Chapter 2: Dissemination of information
- Chapter 3: Health and Safety
- Chapter 4: Investment
- Chapter 5: Joint Undertakings
- Chapter 6: Supplies
- Chapter 7: Safeguards
- Chapter 8: Property Ownership
- Chapter 9: The nuclear common market
- Chapter 10: External relations.

# EU Financial Support for Nuclear Power

- Direct Support
  - Framework Programme
  - Euratom Loans
  - International Assistance Programmes
- Indirect Support
  - Approval of State Aid
  - Decommissioning and Waste Management

# Framework Programmes

- April 2005 the European Commission published proposals for 7<sup>th</sup> FP.
- This is the EU's multi-annual R and D programme.
- This has significantly increased budget of 73 billion (compared to 6<sup>th</sup> FP of 17.5 billion), due to:
  - EU 25
  - Longer time period 7 years
  - Desire for greater EU Research and Development
- The overall budget of the FP has still to be approved by the Parliament and MS.

# Energy and Nuclear Funding in FP

Framework Programme	Total R&D (billion )	Energy and Euratom as % of total
1: 1983-86	3.8	66
2: 1987-90	5.4	50
3: 1991-94	6.6	23
4: 1995-98	13.2	22
5: 1999-2002	14.9	18
6: 2003-06	17.5	11.6
7: 2007-13*	73.2	10.5

# Separation of Nuclear Programme

Proposal for a

**DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**concerning the seventh framework programme of the European Community for research, technological development and demonstration activities (2007 to 2013)**

Proposal for a

**COUNCIL DECISION**

**Concerning the seventh framework programme of the  
European Atomic Energy Community**

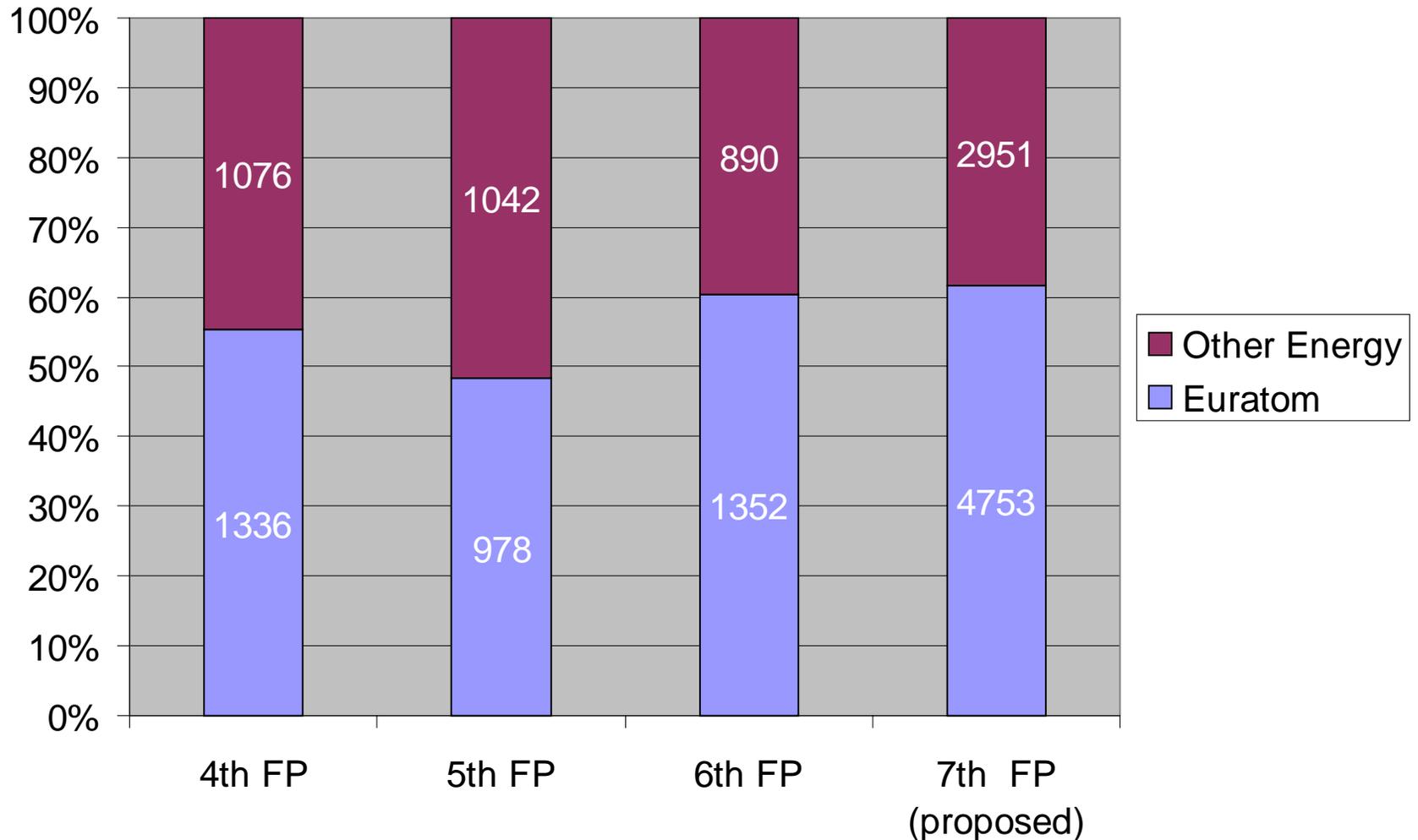
**(Euratom) for nuclear research and training activities (2007 to 2011)**

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# Democratic Implications

- Euratom FP is not under the joint control of the Parliament. The Parliament only has one reading on the issue (to give its opinion).
- Therefore is insufficient discussion on prioritisation within the energy sector as a whole.

# Comparison on Nuclear and Non-Nuclear Energy Funding



# Euratom Framework Programmes Breakdown

	4 <sup>th</sup>	5 <sup>th</sup>	6 <sup>th</sup>	7 <sup>th</sup>		
				2007-11 (proposed)	2011-13 (est)	Total (est)
JRC	441	49	319	541	241	782
Fission		142	209	395	211	607
Fusion	895	788	824	2167	1197	3364
Total	1336	978	1352	3103		4753

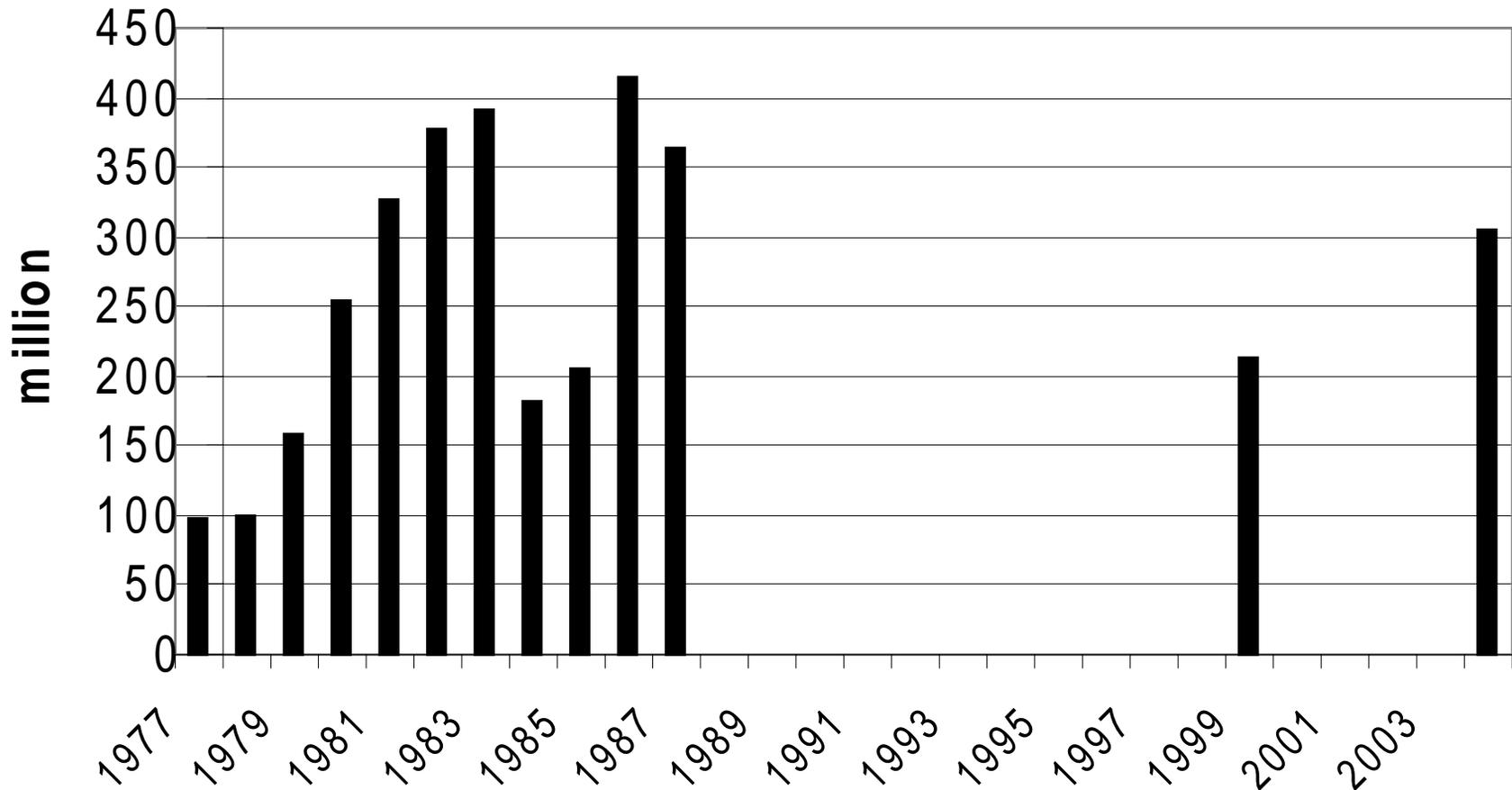
# 7<sup>th</sup> Framework Programme

- The Euratom Budget is only for 5 years, but additional figures are taken from EU sources.
- Fusion budget rises to 600 million/year, to pay for ITER – new Fusion project.
- In the 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> FP, renewables received around 100 million/year

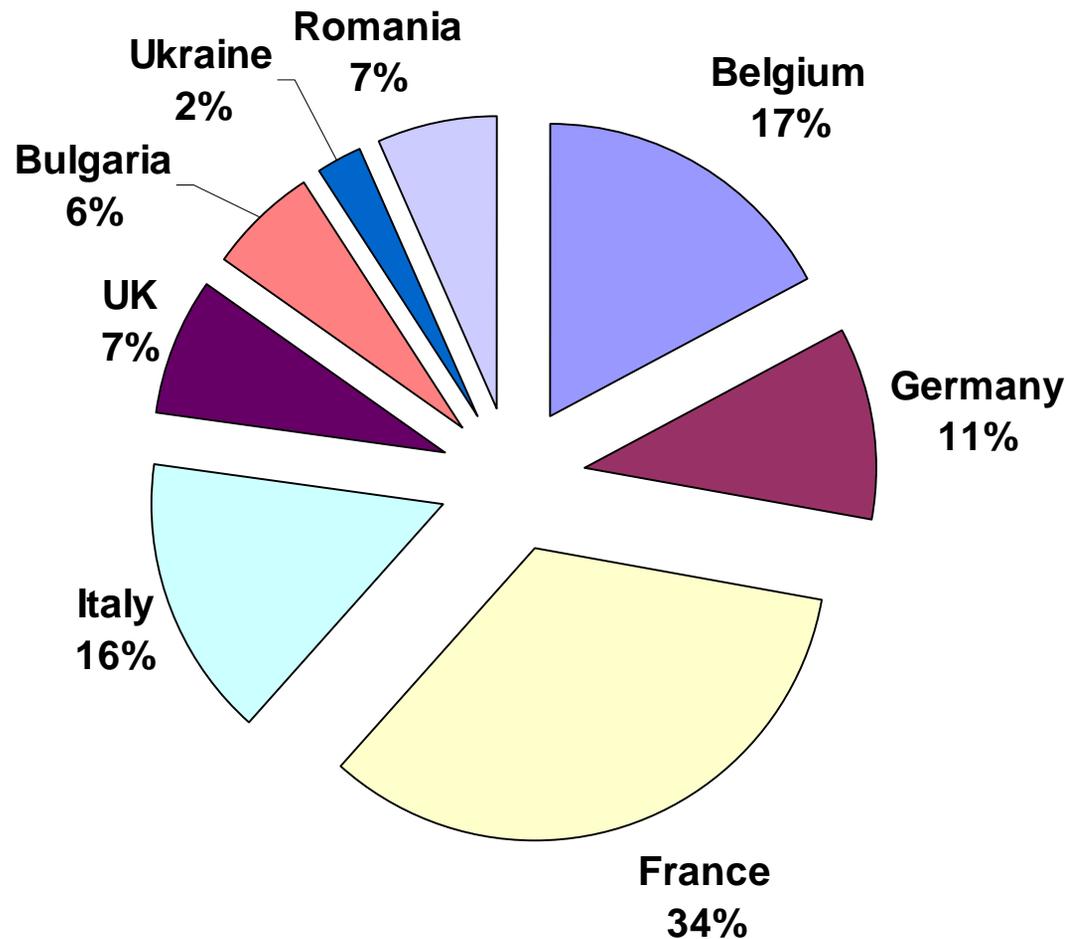
# Euratom Loans

- Since 1977 3.2 billion of EU loans have been given for nuclear power projects.
- The loans are approved only by the European Commission.
- No similar programme exists for renewables or energy efficiency.

# History of Euratom Loans:



# Recipients of Euratom Loans



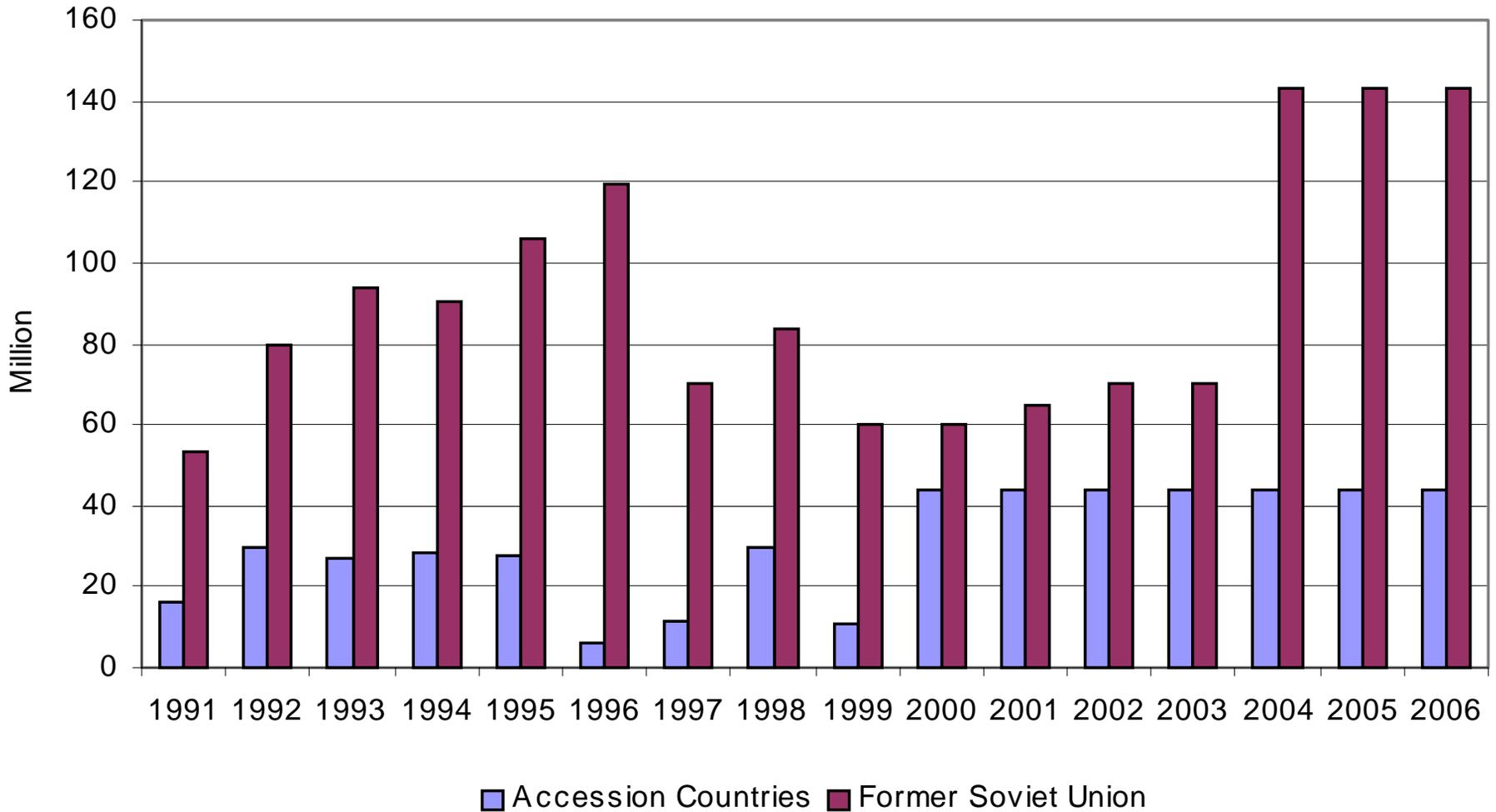
# Future of Euratom Loans

- In 2003 Commission proposed to extend the Euratom Loan facility by 2 billion.
- However, this required unanimous support, which was not forthcoming.
- There remains approximately 800 million in facility, some projects are reported to be being prepared, in particular Belene in Bulgaria.

# International Co-operation and Assistance Programmes

- Nuclear Co-operation Agreements
  - Negotiated by Commission and Approved by Council
  - Encourage enhanced co-operation, nuclear safety, reactor designs, waste management, non-proliferation.
  - Currently, with China, Kazakhstan, Japan, Russia, Ukraine and Uzbekistan

# Phare-Tacis Nuclear Programmes



# Eastern Europe Nuclear vs Energy Funding

- Between 1990-1998 energy budget for PHARE was 220 million.
- Approximately, 14.3 million to renewables.
- And 180 million to nuclear safety.

# Indirect Financial Support

- In the 1980s process of privatisation of energy markets began.
- 1996/7 EU introduce first Electricity Market Directive. This was revised in 2002/3, one reasons was a lack of a level playing field between generators, due to Government subsidies, cross subsidies etc.
- How does market liberalisation balance relate to Euratom Treaty?

# Euratom Vs Energy Market Liberalisation

***'creating the conditions necessary for the speedy establishment and growth of nuclear industries***

**V**

***important shortcomings and possibilities for improving the functioning of the market remain, notably in ensuring a level playing field in generation.***

# State Aid Rulings

- British Energy
- British Nuclear Decommissioning Authority
- Olkiluoto 3
- Slovakian Decommissioning Funds

# British Energy

- Following decline in retail electricity price, BE experienced significant financial difficulties and approached UK Gov. for assistance.
- Gov. gave BE £650 ( 1 billion) credit facility.
- This was approved by Commission on condition that a restructuring plan was introduced
- This eventually undertaken and approved by the Commission, includes transfer of BE waste liabilities to Gov. package worth around 5 billion.
- Commission *'measures foreseen by the UK authorities are appropriate to address the combination of objectives pursued and which are fully endorsed by the Euratom Treaty'*

# Nuclear Decommissioning Authority

- December 2004 Commission launched an investigation into the establishment of UK NDA.
- The NDA has (from 1<sup>st</sup> April 2005) taken over the assets of British Nuclear fuels, including Sellafield and Magnox reactors – both of which will have huge decommissioning costs.
- On launch of investigation Commission stated. *This in-depth enquiry will allow the Commission to judge, in particular, whether the contribution of the setting up of the NDA to the achievement of the Euratom Treaty's objectives outweighs the impact of the aid on the internal market*

# Olkiluoto Nuclear State Aid?

- 2005 EREF made complaint to Commission over financing of Olkiluoto 3.
- EREF's arguments
  - 710 million in ECA finance from Sweden and France
  - 1.95 billion loan at 2.6% from Bayersische Landesbank and other financial institutions.

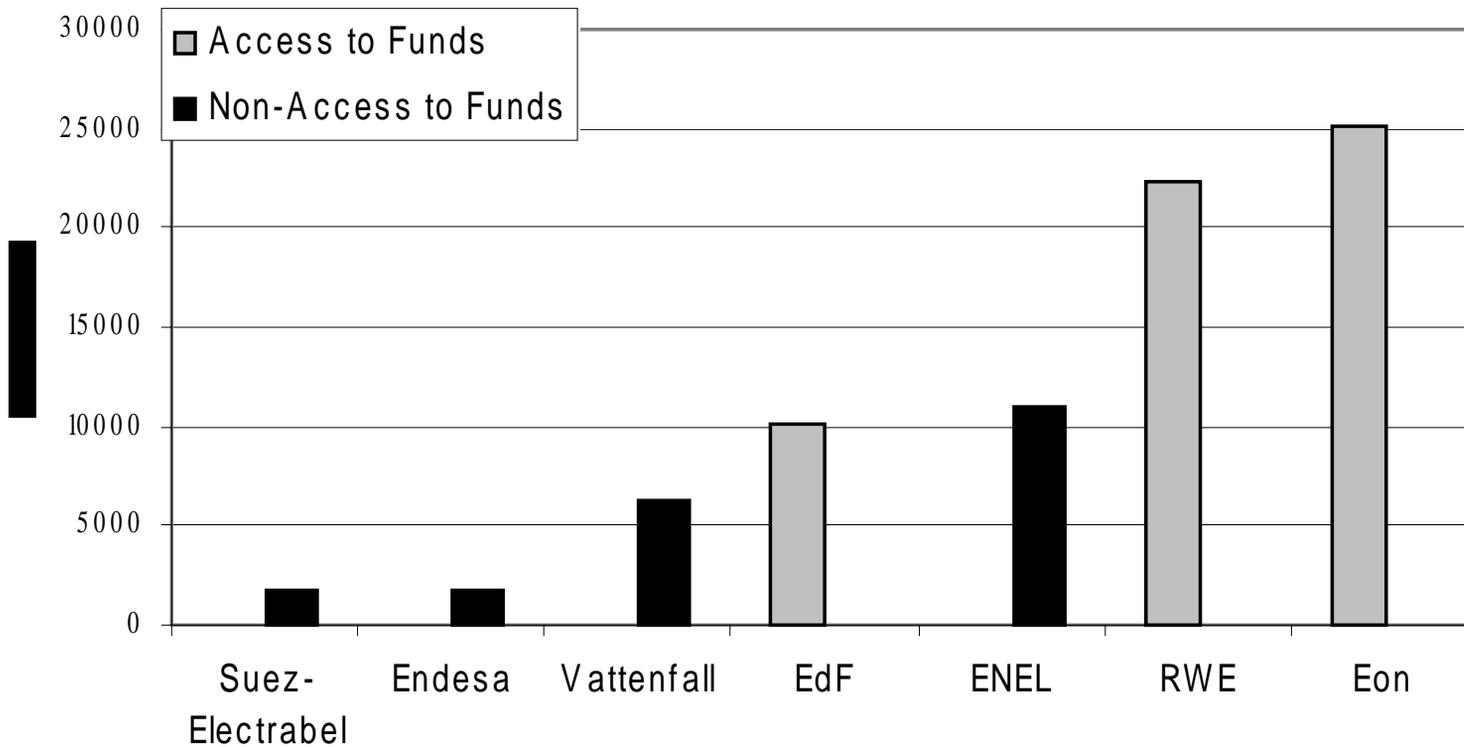
# Slovakian Nuclear Levy

- Possible investigation into the establishment of specific levy on all consumers to pay for nuclear decommissioning.
- Current nuclear fund has approximately 10% of estimated cost of waste management and decommissioning.

# Decommissioning

- Decommissioning and Waste disposal occurs decades after nuclear facility closed.
- Funds must be generated by sale of electricity and secured for future activity.
- Cost of future waste management is 100s of billions.
- Access to nuclear decommissioning funds can give competitive advantage, e.g. EdF, Eon, RWE

# Acquisition Cost of Main Electricity Utilities in Europe 2000-2



# Call for Action

- 2002, EP called for legislation to require separated and independently audited funds.
- 2003, Commission and Council put pressure on EP to compromise.
- **The Commission notes the importance of ensuring that funds established for the purpose of decommissioning and waste management activities, which relate to the objectives of the Euratom Treaty, are managed in a transparent way, and used only for the said purpose. In this context, it intends, within the scope of its responsibilities of the Euratom Treaty to publish an annual report on the use of decommissioning and waste management funds. It shall pay particular attention to ensuring the full application of the relevant provisions of Community law'.**

# Future Euratom Treaty

- Draft Constitutional Treaty did not propose to abolish Euratom, but allow it to retain a separate legal identity.
- Five countries in annex to constitution called for updating Treaty and convening a conference – Germany, Ireland, Hungary, Austria and Sweden.
- European Parliament is beginning Debate on new Constitution.
- Barroso say new Constitution may take two-three years.
- New Constitutional Treaty must address future of all EU Treaties, including Euratom

## **“The Economic Perspective: How much does Euratom promote Nuclear Power in Europe?”**

Antony Froggatt<sup>1</sup>

September 2005

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### **Introduction: What is the Euratom Treaty?**

The Euratom Treaty (ET) is one of the founding Treaties of the EU, has not been subject to any significant reform and has no end date. Consequently, since its signing in 1957 the Treaty has remained a key pillar of support for the development of nuclear technology, both through its very existence and the associated institutional credibility that it gives and through specific support mechanisms. The over-riding intentions of the ET can be seen in its preamble which states:-

- *Recognising that nuclear energy represents an essential resource for the development and invigoration of industry.*
- *Resolved to create the conditions necessary for the development of a powerful nuclear industry.*

The Treaty then seeks to influence the following areas:

- Chapter 1: Promotion of research
- Chapter 2: Dissemination of information
- Chapter 3: Health and Safety
- Chapter 4: Investment
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This brief paper looks primarily at the way in which the Euratom Treaty directly, or indirectly, affects the economics of the nuclear industry.

### **Direct Financial Support:**

#### ***Framework Programme***

In April 2005, the European Commission published its draft proposal for the latest Framework Programme (FP). This allocates research and development funding across a whole range of sectors.

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The most striking aspect of the Commission proposal was the huge budget that the Commission was seeking. The total proposed budget for the 7<sup>th</sup> Framework Programme is €73 billion, compared to the €17.5 billion of the 6<sup>th</sup> FP. The increase is in part due to a larger EU (EU 25 rather than EU 15), in part due to a longer period, the 7<sup>th</sup> FP will last for 7 years, rather than the current 5 year. However, the budget also reflects a desire for greater EU research.

However, this overall budget has still to be approved by Member States and the European Parliament and given the current political uncertainties, the final budget may not be the same as originally proposed by the European Commission. This may cause particular problems for nuclear fusion as the significant budget increase – see below- is a result of an international commitment to co-fund a new research facility.

The Commission proposal for the 7<sup>th</sup> FP is also remarkable as it once again highlights the ‘special case’ given to nuclear power, in that: -

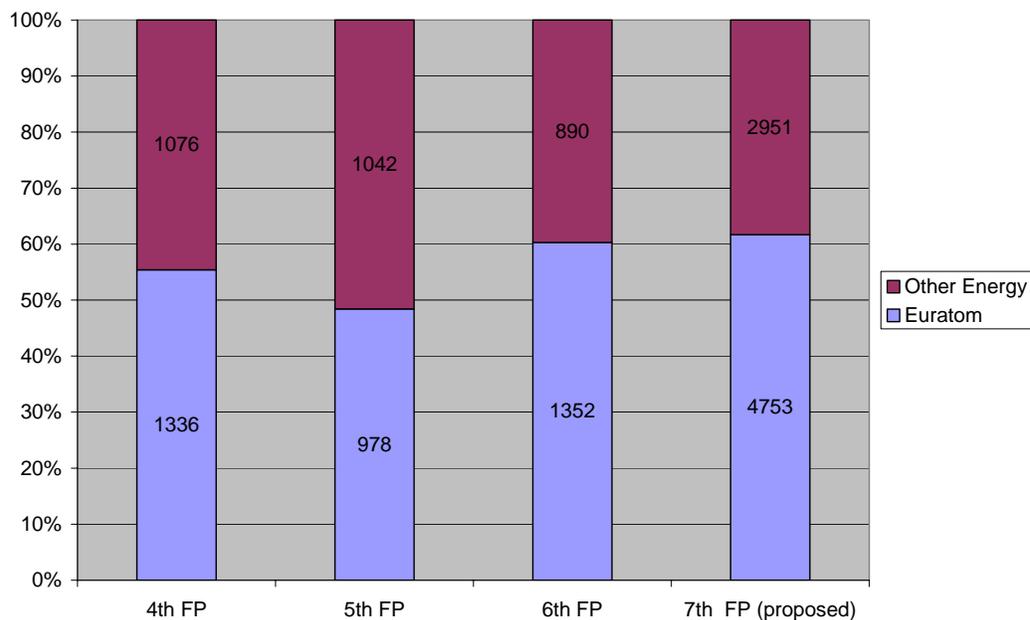
- Firstly, the research and development budget is separate from that of other energy programmes. This effectively means that nuclear is ‘ring fenced’ from the other debates about how the limited funds for energy R&D should be allocated.
- Secondly, there is no Parliamentary co-decision of the Euratom programme, only consultation.

This is clearly outdated and must be reformed. The most logical approach would be to phase out the Euratom FP and in future include all nuclear R&D into the energy budget.

Proposal for a  
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The separate research programme for nuclear power is not new. This can be seen the graph below which shows the Euratom and energy research budgets over the past four FP.

**Figure 1: Comparison of Energy and Nuclear Research and Development Budgets**



Source: Cordis<sup>2</sup> and European Commission<sup>3</sup>

NOTE<sup>4</sup>

As can be seen nuclear power, both fission and fusion is proposed to receive 60% of the total funds allocated to energy technologies. A more detailed breakdown of the Euratom research budget can be seen in the table below. The JRC and nuclear fission research programmes are expected to focus on radiation protection, nuclear waste management and the development of new reactor designs (including the Generation IV reactors).

**Table 1: Breakdown of Euratom Framework Programmes**

	4 <sup>th</sup>	5 <sup>th</sup>	6 <sup>th</sup>	7 <sup>th</sup>		
				2007-11 (proposed)	2011-13 (estimate) <sup>5</sup>	Total (estimate)
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Fission		142	209	395	211	607
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Total	1336	978	1352	3103		4753

Source: Cordis<sup>6</sup> and European Commission<sup>7</sup>

As can be seen fusion research is set to receive a considerable boost in its funding, an increase from roughly €200 per year over the years 1995-2006 but rising to €600 per year at the end of the 7<sup>th</sup> FP. This is in anticipation of the construction of the ITER (International Tokamak Experimental Reactor), which is to be located in France.

<sup>2</sup> <http://www.cordis.lu/en/home.html>

<sup>3</sup> COM (2005)119 final

<sup>4</sup> The Euratom Programme budget is officially for the years 2007-11, this is €3101 million, however, the proposal also contains a provisional budget for 2007-13, of €4753

<sup>5</sup> The additional year allocations have been calculated for fission and fusion using the same ratio as adopted in the previous period.

<sup>6</sup> <http://www.cordis.lu/en/home.html>

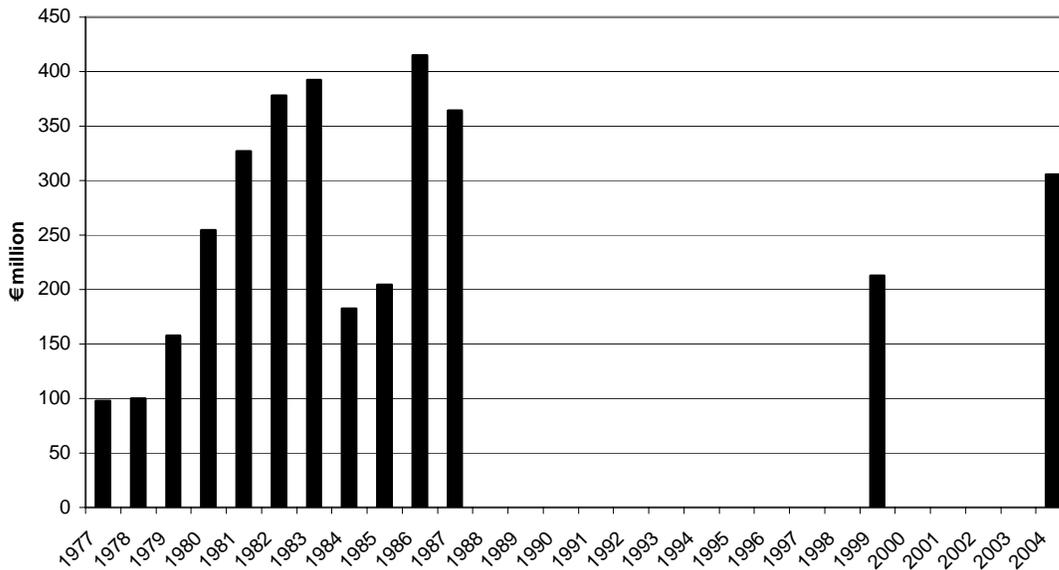
<sup>7</sup> COM (2005)119 final

According to the Brussels based renewable energy industry, the level of funding for all renewable energy technologies in the 4-6<sup>th</sup> Framework programme is approximately €100 per year<sup>8</sup>. In the 7<sup>th</sup> Framework programme, there are nine areas that have been identified within the energy programme. If this was divided equally, then each area would receive approximately €300 million over seven years.

### **Euratom Loans Programme**

Since 1977 around €3.2 billion worth of financial support for nuclear power has been awarded by the Euratom's nuclear loan facility. The loan facility enables nuclear companies to obtain financing for large projects, which given the uncertainty of nuclear construction, with its history of delays and cost overruns, they might not be able to obtain otherwise. The country recipients of these loans and their values are shown in Figure 9. As can be seen, the use of the loan facility has decreased significantly over the last decade or so. However, three loans have been awarded in recent years, that for Kozloduy in Bulgaria in 1999 and for Khmel'nitsky 2 and Rovno 4 in Ukraine and Cernavoda 2 in Romania in 2004.

**Figure 2: History of Euratom Loans 1977-Present Day**



Source: European Commission, 2003<sup>9</sup>

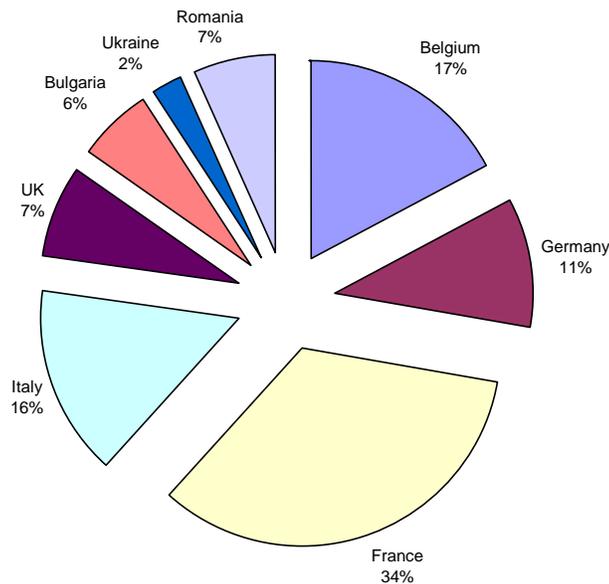
In 2002 the European Commission put forward a proposal to raise the Loan ceiling by a further €2 billion Euro. However, the Council of Ministers was unable to reach a decision on the issue and the legislation has not progressed.

Furthermore, it is interesting to look at the country breakdown of who receives Euratom loans. The graph below shows that France has received far more loans than any other country. In total France has received 39 separate Euratom loans totalling over €1 billion.

<sup>8</sup> FP7 Priorities for the Renewable Energy Sector 1 March 2005 Prof. Arthouros Zervos President EREC; EUREC Agency & EREC (European Renewable Energy Research and Industry)

<sup>9</sup> Information distributed by the European Commission to the EU's Finance Councillors Working Group February 2003.

**Figure 3: Recipients of Euratom Loans**



Source: European Commission, 2003 and 2004

There are a number of other projects which might be put forward for further Euratom Loans, this includes the possible completion of Belene in Bulgaria, the further completion of the Cernavoda units in Romania and several reactors in Russia. Unless the European Council approves the further extension of the Euratom Loan fund, only €800 million is available for future projects.

Although the Euratom Loan budget is relatively small it is important for the completion of nuclear power. The financing of new nuclear reactors is complicated and risky, due to the large construction costs, long lead times and fluctuating market price for electricity. Consequently, the financial involvement of the EU is used to as a 'kite-mark' of approval to encourage other financiers and alleviate public concern.

### ***Nuclear Programmes Outside the Euratom Union***

#### **Nuclear Co-operation Agreements:**

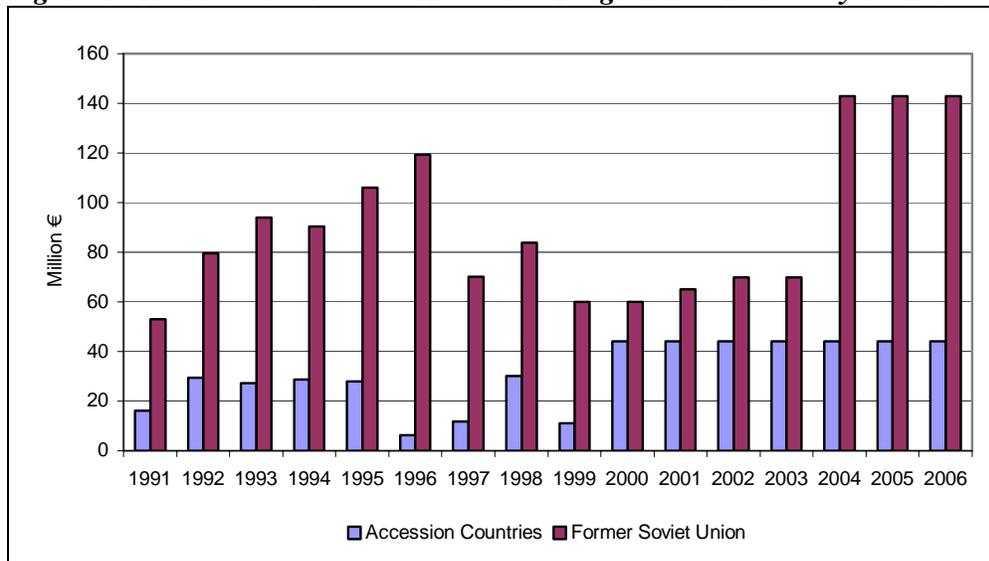
Under the Euratom Treaty, the European Commission, with approval of only the Council and not the Parliament, negotiates bilateral 'Nuclear Co-operation Agreements' with a number of States. This has included, China, Kazakhstan, Japan, Russia, Ukraine and Uzbekistan. These agreements are designed to encourage joint research efforts into nuclear waste and nuclear safety, encourage the exchange of nuclear material and non-proliferation measures. These agreements are also designed to support the mutual development of the nuclear sectors.

## Phare-Tacis Programme

In 1991 the EU established initiatives under the PHARE and TACIS programmes<sup>10</sup> to try and improve nuclear safety in the region. By 2006 it is estimated that the EU will have allocated approximately €2 billion to address nuclear concerns in Accession countries and the former Soviet Union. Firms from Western Europe undertake most of this work<sup>11</sup>.

Due to the large spending commitment on nuclear assistance programmes the PHARE programme only allocated a relatively small amount to other energy sources. Between 1990 and 1998 the total energy budget for the whole PHARE programme was 220 MECU<sup>12</sup>. However, of this approximately 180 MECU<sup>13</sup> was spent on nuclear safety programmes – around 80% of the total. Of the funds not allocated for nuclear, a European Parliament report estimates that only MECU 14.3 million was allocated to renewable energy<sup>14</sup>, just 6.5% of the total. The Parliamentary report also notes that during the period 1990-1997 the average expenditure for electricity projects was €4.1 million per year. The estimated development of these nuclear aid programmes from 1991 to 2006 is shown in below.

**Figure 4: International Nuclear Assistance Programmes Funded by the EU**



Source: European Commission -various<sup>15</sup>

<sup>10</sup> The PHARE programme gives transitional aid to accession countries, while the TACIS programme applies to countries in the former Soviet Union.

<sup>11</sup> European Commission 17<sup>th</sup> January 2002 *Nuclear Safety Strategy Paper, 2002-6* and Indicative Programme 2002-2003: Sorgem Organisation and Development, November 2000, *Assessment of Phare and Tacis Nuclear Safety Activities*.

<sup>12</sup> ERM, September 1999. *An Evaluation of Phare-financed Energy and Environment Programmes Inventory Report*, table 2, page 6. MECU stands for Million European Currency Units. 1 ECU is roughly equivalent to 1 Euro

<sup>13</sup> Sorgem Organisation and Development, November 2000. *Assessment of Phare and Tacis Nuclear Safety Activities*; Appendix A1, page 6

<sup>14</sup> Frans Oosterhuis, Institute for Environmental Studies, Vrije Universiteit, Amsterdam, draft report for the European Parliament's DG for Research, July 2001. *Energy Subsidies in the European Union*.

<sup>15</sup> European Commission 17<sup>th</sup> January 2002 *Nuclear Safety Strategy Paper, 2002-6* and Indicative Programme 2002-2003: Sorgem Organisation and Development, November 2000, *Assessment of Phare and Tacis Nuclear Safety Activities*.

## **Nuclear Co-operation Agreements:**

Under the Euratom Treaty, the European Commission, with approval of only the Council and not the Parliament, negotiates bilateral 'Nuclear Co-operation Agreements' with a number of States. This has included, China, Kazakhstan, Japan, Russia, Ukraine and Uzbekistan. These agreements are designed to encourage joint research efforts into nuclear waste and nuclear safety, encourage the exchange of nuclear material and non-proliferation measures. These agreements are also designed to support the mutual development of the nuclear sectors.

## **Indirect Financial Support:**

In the 1990s many Member States privatised their energy sectors. Simultaneously the European Commission introduced legislation to liberalise the EU's energy markets. These processes are supposed to introduce a level playing field between different types of electricity generator. However, in 2001 the European Commission proposed a second wave of legislation to increase further competition between retailers and increase transparency. As the Commission noted one area that required special attention was to create a level playing field between different generators.

*'Experience in implementing this Directive shows the benefits that may result from the internal market in electricity, in terms of efficiency gains, price reductions, higher standards of service and increased competitiveness. However, important shortcomings and possibilities for improving the functioning of the market remain, notably in ensuring a level playing field in generation.'* (emphasis added)<sup>16</sup>

Within Europe all of the current nuclear reactors were ordered when the markets were not liberalised. Consequently, less attention was placed on the economics of nuclear power and Governmental financial support than would occur today.

However, the Euratom Treaty, which is still valid today has as part of its remit to support the standard of living in the EU by '*creating the conditions necessary for the speedy establishment and growth of nuclear industries*'<sup>17</sup>.

Therefore there is a potential conflict between the requirements of the electricity market directive and the Euratom Treaty. This conflict is becoming increasingly visible.

## **State Aid Rulings**

### **British Energy.**

The privately owned nuclear generator in the UK, British Energy, has been experiencing severe financial difficulties as a result of its poor performance in the UK's competitive electricity market. In September 2002, BE approached the UK Government claiming it needed aid in order to continue operating. The Government provided BE with a credit facility of £410m<sup>18</sup>, which was allowed by the European Commission on the condition that the UK produced a restructuring plan for the company. The restructuring plan incorporates a range of measures that would transfer many of British Energy's nuclear waste liabilities to the UK taxpayer – in other words, the restructuring plan

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<sup>16</sup> Directive 2003/54/EC Of The European Parliament And Of The Council of 26 June 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92/EC Recital 2, page 2.

<sup>17</sup> Euratom Treaty, Article 1.

<sup>18</sup> The credit facility was temporarily increased to £650 million. It currently stands at £200 million.

constitutes state aid to British Energy. In September 2004 the Commission approved the plan, which could allow State aid for British Energy – worth around €5.1 billion in current values.

The Commission eventually released the justification for their approval of the State Aid case. This responds to a number of questions raised by objectors and lays out the reasoning for the approval.

*“The Commission concludes that the measures foreseen by the UK authorities are appropriate to address the combination of objectives pursued and which are fully endorsed by the Euratom Treaty<sup>19</sup>”.*

## **Cases Pending:**

Currently, the European Commission are also considering three other complaints or applications for State Aid regarding the nuclear sector.

British Nuclear Decommissioning Authority: In December the Commission launched an investigation into the establishment of the Nuclear Decommissioning Authority (NDA). The NDA will take over the assets of British Nuclear Fuels, most notably the Sellafield Mox Plant and reprocessing facility and the Magnox stations. This will firmly place the waste liability into state hands. At the launch of the inquiry the Commission has made it clear what is at issue.

*This in-depth enquiry will allow the Commission to judge, in particular, whether the contribution of the setting up of the NDA to the achievement of the Euratom Treaty’s objectives outweighs the impact of the aid on the internal market<sup>20</sup>.*

Finish Nuclear State Aid: In early 2005 the European Renewable Energy Federation (EREF) made a formal complaint to the Commission over the financing for the construction of the reactor at Olkiluoto in Finland. EREF argue that the awarding of export credit guarantee from EU Member States (France and Sweden) totalling €710 million and the granting of a €1.95 billion loan through the public bank of Bayerische Landesbank and other financial institutions, with a very low interest rate of 2.6%, constitute State Aid.

Slovakian Nuclear Levy: The European Commission may launch an investigation into planned State Aid to the Slovak nuclear industry following a complaint in June 2005 by environmental groups led by Friends of the Earth Europe. The enquiry will centre on a 2004 Slovak government decision effectively to increase the prices paid by all electricity users in the country. The scheme should have begun on 1 January 2005, but has been repeatedly delayed. If it eventually goes ahead, then the new levy would be used for a special nuclear decommissioning fund, which currently contains only around 10% of estimated total ‘clean-up’ costs<sup>21</sup>.

## **Support by Non-Action:**

### ***Failure to act on Nuclear Decommissioning Funds***

During the operating life of a nuclear facility nuclear waste is accumulated which along with the dismantling of the nuclear facility must occur many years, or decades, after the facility has been closed. In order to pay for this activity, the operator of the nuclear facility should be required to put aside a percentage of the revenue. These funds must be accumulated and kept in such a way that it

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<sup>19</sup> Commission Decision of 22<sup>nd</sup> September 2004 on the State Aid which the United Kingdom is planning to implement for British Energy Plc, C(2004) 3474 Final.

<sup>20</sup> <http://europa.eu.int/rapid/pressReleasesAction.do?reference=IP/04/1430&format=HTML&aged=0&language=EN&guiLanguage=en>

<sup>21</sup> [http://www.foeeurope.org/press/2005/MJ\\_13\\_June\\_Slovakia.htm](http://www.foeeurope.org/press/2005/MJ_13_June_Slovakia.htm)

is guaranteed that when the final waste disposal and decommissioning of facilities does occur there is sufficient financial resources to pay for the necessary activity. It has long been recognised that the mechanism and amount of funds that utilities are required to put aside should be harmonised between Member States, both to ensure adequate funds are available and to avoid market distortions.

The size of these final funds are difficult to forecast, as this will depend on the interest rates of the accounts that the funds are placed in and on the technical aspects of the decommissioning and waste management activities. It is also difficult to anticipate what the final cost of the waste management will be, as the decommissioning of large scale facilities has not taken place, nor has the construction of large high or intermediate level waste repositories. However, a rough prediction of the expected costs of waste management and decommissioning is give in the table below:

**Table 2: Expected Nuclear Waste and Decommissioning Funds in the EU-15**

Country	Expected Size of Fund (Billion Euro)	Companies
Belgium	17.5-22.5	Electrobel, EdF, SPE
Finland	1.6	IVO; TVO
France	63	EdF
Germany	25-30	EnBW, EON, DB, RWE, HEW
Netherlands	1.2	EPZ; NVGKN
Spain	9.66	HI, Nuclenor, CSE, UE, Fecsa, Enseds, Hidruna, Segre, Uefsa, ID, Iberdrola, Iberduero, Hifrensa, EIA
Sweden	4.8	Sydskraft; FKA; OKG; Vattenfall
UK	58	British Energy; BNFL

In order to require action in this area the European Parliament, in March 2002, in its first reading proposed to change the revised electricity market Directive to include specific requirements on decommissioning funds. This included a requirement that there must be separation of accounts for decommissioning activities and that these must be independently monitored.

*"5a. In order to ensure the availability of funds for future decommissioning and to avoid obstacles to fair competition in the energy market, Member States **must adopt separate accounting** for the financing of future decommissioning or waste management activities. These funds must be reviewed and audited annually by an independent body, such as the regulator or regulatory bodies, to verify that the revenues and the associated interest raised for these future activities shall only be used for these purposes, that is for decommissioning or waste management activities and not used directly or indirectly to fund activities in the market.*

However, to many within the European Commission and Member States this proposal was not acceptable as it would for the first time place nuclear funding directly under the responsibility of the EC Treaty – and not Euratom. Therefore, considerable pressure was exerted on key parts of the European Parliament, so that during the second reading a compromise text was adopted. The European Commission’s statement very clearly puts Euratom back in control of the issue.

**Statements made with regard to decommissioning and waste management activities<sup>22</sup>**

**Inter-institutional Statement:**

*The European Parliament, the Council and the Commission underline the need for Member States to ensure that adequate financial resources for decommissioning and waste management activities, which are audited in Member States, are actually available for the purpose for which they have been established and are managed in a transparent way, thus avoiding obstacles to fair competition in the energy market'.*

**Commission Statement:**

*The Commission notes the importance of ensuring that funds established for the purpose of decommissioning and waste management activities, which relate to the objectives of the Euratom Treaty, are managed in a transparent way, and used only for the said purpose. In this context, it intends, within the scope of its responsibilities of the Euratom Treaty to publish an annual report on the use of decommissioning and waste management funds. It shall pay particular attention to ensuring the full application of the relevant provisions of Community law'.*

In October 2004 the European Commission did publish a report on Decommissioning Funds. However, the document was incomplete, as it contained only partial information on EU 15 countries and no information on the new Members.

## What Future Euratom Treaty?

The Euratom Treaty is out of date and reflects a technological bias from the 1950s. It is widely accepted that the over-riding objectives of the Treaty do not confirm to today's energy market. Few can believe that a Euratom Treaty would be introduced today if it didn't exist. However, how to remove it is more complicated. Over the last decade there are have been a number of initiatives from Parliaments, Governments and Non-Government Organisations to try and have the Euratom Treaty scrapped or significantly reformed. However, these have not been successful for a number of reasons including:

Pro-Nuclear Government: Some countries, notably France, do not want to see the abolishment of the Euratom Treaty as they are highly supportive of nuclear power and both see the value of the Euratom Treaty and would resist a political initiative which could be seen as 'anti-nuclear'.

Unanimity Requirement: The reform of the EU Treaties requires the unanimous support of Member States, thus countries that would favour the abolishment of Euratom believe it would not be possible and therefore don't invest their political capital into action.

Diplomatic 'headache': Often those negotiating the revision of the EU Treaties are from the Foreign Office or Diplomatic corps and they are not motivated to engage in the reform of a relatively obscure sectorial treaty, therefore Euratom reform is not given the priority it needs.

Despite this, there is an over-riding logical to remove the Euratom Treaty. This is accepted even by the nuclear industry who wish for the Treaty to be retained.

The creation of a new Constitutional Treaty would have left Euratom as the only Treaty outside the new Constitutional Treaty, neither included and reform nor abolish and abandoned. This is despite the efforts of a number of Government, the European Parliament, Members of the Convention and even senior figures in the European Commission.

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<sup>22</sup> EU Official Journal 2003 L176

Annexed to the final draft Constitutional Treaty was a list of declarations on the Protocols of the Treaty, this included, the following from five countries: -<sup>23</sup>

*44. Declaration by the Federal Republic of Germany, Ireland, the Republic of Hungary, the Republic of Austria and the Kingdom of Sweden. Germany, Ireland, Hungary, Austria and Sweden note that the core provisions of the Treaty establishing the European Atomic Energy Community have not been substantially amended since its entry into force and need to be brought up to date. They therefore support the idea of a Conference of the Representatives of the Governments of the Member States, which should be convened as soon as possible.*

This both indicates that there is some desire from Member States to change the Euratom Treaty, but also how far there is to go. What is remarkable is that some countries like Denmark that have been critical of Euratom and nuclear power have not signed up to this declaration.

However, the 'period of reflection' following the no votes in France and the Netherlands on the Constitutional Treaty and the expected need for a revised proposal does give the opportunity for further and possibly meaningful discussions on the reform of the Euratom Treaty. This has already been publicly recognised the European Parliament, where a report has been prepared for discussions lead by the Constitutional Affairs Committee. The report is timetabled to be agreed by the Parliament by the end of 2005<sup>24</sup>.

This public process offers an opportunity to once again push the Euratom Abolishment agenda and to begin encouraging Member States to once again take up the debate.

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<sup>23</sup> Official Journal of the European Communities, C/310/465, 16<sup>th</sup> December 2004

<sup>24</sup> <http://www.europarl.eu.int/oeil/file.jsp?id=5261822>