Energy Intelligence for Europe

The Euratom Treaty and future energy options: Conditions for a level playing field in the energy sector

Copenhagen, 23 September 2005

Transcript of the Debate: "What Future for the Euratom Treaty?"

The debaters were Andreas Molin, the Austrian Environment Ministry, and Nina Commeau-Yannoussis, Head of Unit of Energy Policy and Security of Supply, European Commission Directorate-General for Energy and Transport. Debate chair was Dominique Voynet, French Senate member and former Minister of the Environment

DOMINIQUE VOYNET: Thank you all for being here. I want to say a few words first and tell you about my long experience as Minister of Environment in France. It is not the subject of today, but I have to tell you some things. First I want to tell you that I had many occasions to work with Svend Auken and it was with a lot of friendship and a lot of respect. We worked very hard in Kyoto and it was also with Angela Merkel. At this time she was anti-nuclear, I remember. She was considered anti-nuclear. A few years later, when I decided to resign I asked some partners to look at my work and to criticise my work. Of course, most of them didn't dare to say any bad things, but Svend Auken said: "Oh, she is a very good woman, she has worked very hard, but her English is miserable". And so, you will judge by yourself.

Secondly, I want to tell you about my work as a French Minister in a large coalition of leftist parties, all in favour of nuclear power, but the Greens. Socialists, Communists and two little left parties, all pro-nuclear, but the Greens, all proud of the French singularity, but the Greens. But it was possible to do things, to decide things in this field: To decide not to build any new nuclear power plants, to decide to stop the project of EPR[1], to stop the Super Phoenix (breeder reactor). I am particularly proud of two other decisions: First, I gained the support of a Prime Minister to take position in the European debate against any nuclear in the Clean Development Mechanisms of Kyoto, because it was not really serious to suggest to many million people who had no money at all, no state at all, no electricity network at all, to use nuclear. Secondly, a government decision on a very important protocol concerning radioactivity in the OSPAR Treaty[2]. The decision was to say: OK, France agrees, but you should have no liquid radioactive emissions in the sea by the year 2020. And it was important to us because is has touched the interests at the heart of the nuclear industry in France, the holiest of the holy, La Hague. The anti-nuclear movement in France is convinced that I am not strong enough and I agree with this, but even as a weak Green Minister in a large coalition, I could to some things to improve the situation in France.

[1] EPR = *European Pressurized Reactor*.
[2] OSPAR Treaty = *The Convention for the Protection of the Marine Environment of the North-East Atlantic*.

I have to speak about the Euratom Treaty now. In the middle of the fifties, hopes for widespread nuclear production in the world were very high. On 8 December 1953, General Dwight Eisenhower delivered his “atoms for peace” speech. In 1955, thousands of scientists met in Geneva for one of the largest science conferences of all time under the title “peaceful uses of nuclear energy”. In 1957, the Euraom Treaty was signed. Nina reminded us that two of the founding Treaties of the European Community were dedicated to the strategic issue of energy. The enthusiasm was huge for the potential benefits of nuclear power. The 225 articles were presided by the following consideration: “Recognizing that nuclear energy represents an essential resource for the development and invigoration of industry and will permit the advancement of the cause of peace” and “resolved to create the conditions necessary for the development of a powerful nuclear industry which will provide extensive energy resources, lead to the modernization of technical processes and contribute to the prosperity of their peoples”.

Article 1 of the Treaty stated that the Member States would commit themselves in the creation of conditions necessary for the speedy establishment and growth of nuclear industries.

The Treaty was signed by the six founding members of the European Community: Italy, France, Belgium, the Federal Republic of Germany, the Netherlands and Luxembourg. All but Luxembourg started with nuclear power programs. Fifty years later, the European Union has nothing in common with the European Community of the fifties. There are 25 Member States, of which 13 operate between 1 and 59 nuclear reactors. Of these 13 nuclear member states, two, Germany and Belgium, have passed nuclear phase-out legislation. One, Sweden, pursues an active phase-out policy, one, Lithuania, has to close it units under the accession agreement. One founding member state, Italy, has actually abandoned a substantial nuclear program after the Chernobyl disaster. Since 1989 there are more units in the current EU member states that are shut down than are started up.

While the European Union has radically changed, while the nuclear industry has been in constant decline for over fifteen years, the Euratom Treaty remains intact, separated from other EU legislation. Euratom decisions are not subject to co-decision with the European Parliament. Euratom has its own research and development programs, a large separate system. At the same time, other energy sources have reached maturity under very difficult conditions.

Considering this situation, considering also the context – President Barroso’s speech two days ago concerning the future of the European Constitution – considering the German elections, considering the reluctance of European citizens toward nuclear energy, I think it is time to face new questions. With respect to this reluctance, I have to say that it is very high, even in France. I want to tell you about a new opinion poll concerning the sensibility of the citizens regarding nuclear waste. As you might know, we have a big national debate on the future of nuclear waste and 89% of the people say that they will not accept a nuclear waste underground storage facility in their neighbourhood. It is normal. I am not surprised of it. 53% of the French people – although they have been exposed for years to such a big publicity from the nuclear lobby – say that they would like France to go out, that they would like to phase out nuclear.

So, I have questions for both of you, I have questions for Nina and for Andreas: Isn’t it high time to review the Euratom Treaty, abolish the different standard, the particular conditions, and finally create a level playing field for all energy sources and in particular for energy efficiency and renewable energies? Isn’t it urgent to get legally binding decisions on nuclear security, safety control, waste management, decommissioning, effectively under co-decision procedures with the

European Parliament? Isn't it indispensable to finally adopt transparency and democracy in a sector that has too often escaped public scrutiny and control? These are questions for both of you.

Then I have questions for Nina Commeau-Yannoussis: In 2002 in Brussels you said and these are your words: You said that the wording of the first article of the Euratom Treaty might be somewhat obsolete, being so proactive in promoting such an energy source. The Commission has acted in the past as an executor of the provisions of the Euratom Treaty. Is the Commission now ready to start a review process of the provisions of the Treaty that are obviously in conflict with its own policy objectives? Doesn't the Euratom Treaty hinder the realisation of Commissioner Piebalg's six priorities as presented in April 2005: Energy efficiency a top priority, internal market of gas and electricity, renewable energy, nuclear safety and security, European Union external policy relations and better linkage of energy and environment research policy?

And now questions for Andreas Molin. I am a little disappointed that Rebecca has already asked one of them. Of course we have understood that you are convinced that the best strategy is not to say the things directly. You explained that you are not convinced that the Austrian Presidency was the best moment to push for your own priorities. I hope you won't be angry if I say that I don't agree at all with you. Of course you have to pay the price of a decision and you won't get everything you want. It is not always the best place to push for your priorities, but it is sometimes possible with or without the Commission. I give you only one example: During the French Presidency in the second semester of the year 2000, we decided - because we had a sufficient minority of a vote – the European moratorium on GMOs and it has lasted four long years. Yes, we depended on the Commission partly, but not totally, and I think that we should use the possibilities to have a dialogue with the Member States that won't phase out or worse: Who decide to go on, Finland or France for example. We should also use all the occasions to discuss with the Commission its role and the evolution of its role concerning the new international context of the price of gas, the greenhouse effect and the main priorities of the European citizens.

I would suggest two ideas: The first one is related to the twentieth anniversary of Chernobyl, the question of tourism of nuclear waste between the European Union and Russia. The second one concerns the big radioactive pollution of the sea originating from Sellafield and La Hague. Thank you (*applause from the audience*). Some of you understood my English, thank you.

NINA COMMEAU-YANNOUSSIS: OK, there were a lot of questions. I am not sure that I remember all of them. So if I forget some, please remind me. Before answering the questions, may I make just a comment: It is very often that I hear a reflection on putting the Commission on one side and the Member States and the Council of the European Union on the other side. Being really confident in Europe and its construction, I consider as a servant of the European Commission that we are working for the Member States, that we are working for the interest of the European Union and we are working for the citizens. Otherwise, our work would not have sense. So, if really the future Presidency thinks that we are working against the Presidency, I think that there is a misunderstanding. Personally, I would be very sorry about that. I think that the Commission is a quite open institution and we are not proposing anything because we have the monopoly of the proposals. To the Council, I think we are very open and we are not proposing something just because we have some ideological ideas, but really because that it is in the interest of the citizens of the European Union as a whole and in the interest of the economical development of the European Union and of all the Member States. Of course, the interest of everybody is sometimes against the

interest of one or two. But nevertheless, I think that our work is positive towards any other institution.

Yes, I said and I continue to say that the Preamble of the Euratom Treaty is obsolete. As could be our voluntary policy to sustain renewable energy in Europe, it could be in fifty years. The most active policy we have is on sustaining renewable energy. But in the 50ies we see in the history of the development of nuclear energy, the Preamble was reflecting the thought of the Member States at that time. At the same time, I don't believe that the Preamble is the most important part of the Treaty. If we look at all the chapters of the Treaty, we see that during these fifty years some chapters are not being used at all. For instance, the internal market for uranium is a completely dead chapter. Some of the other chapters have more importance today than they had in the beginning.

Now again, and this is my opinion – I will not say this on behalf of the Commission – I prefer to speak from my point of view, because I do not know exactly what will be the opinion of the College - from my point of view the Euratom Treaty has some very good aspects and I think that it is important to notice that these positive aspects have been developed. There is some legislation and this legislation was translated in the Member States and all the Member States agreed with that. And if you are looking to the situation of the opinion of the Member States on the nuclear package, which concerns – as Andreas explained – nuclear safety, decommissioning and waste management, what was amazing is that some anti-nuclear countries were in favour of this package and were happy that the Euratom Treaty allows these kinds of proposals. This was the case with Austria and Luxembourg. Denmark was against.

So I don't think it is easy to say that "because we are against nuclear, we don't want the Euratom Treaty". I believe that you can be against nuclear and love the existence of Euratom. Of course, I know that some people are saying that because Euratom stays and because it is controlling the activities of the nuclear industry, it allows the development of nuclear. OK, I can understand this kind of position. But I don't think that it is so simple. It is not a question of black and white. You can find some good aspects of having this Treaty and some less good aspects. In my opinion it is difficult to say that because some aspects are obsolete, we have to forget the Treaty. In our DG[3] we made the exercise of thinking about a completely new structure for a new Constitution. I am sure that you know this project, which is the Penelope project. When we had done this exercise, the idea was to answer the question: Do we really need the Euratom Treaty? If some of you have seen this project, you will see that there is no Euratom Treaty in the Penelope, but we take some parts, because we consider that even if you have to forget the Atomic Energy Community, you should have some legislation on nuclear activities, because they exist.

So on policy objectives: I am not quite sure that I know very well what was the question on policy objectives. But I will say as Head of Unit of Energy Policy and Security of Supply – and now I would say that I speak on behalf of the Commission – for me the most important concept is diversification of energy supplies all over the world and diversification of energy in the European Union, so all the energy should be an open option to the Member States to decide what they want.

With respect to the question on a better link between energy and the environment: Well, in the sixth priority of our Commissioner Piebalgs, the idea was that because of the Kyoto Protocol, because some preoccupation and so on, energy and the environment are very much linked and will be more

[3] = The European Commission Directorate-General for Energy and Transport.

and more linked in the future. As a policy maker I would say that environment is really a part of the energy policy. They are not two policies that sometime should find some common objectives. I will say that of course the environment is an objective, but as you know with regard to nuclear, environmental opinion could change. For some the most important issue is radioactivity and waste, for others it is CO_2 emissions. You can choose what you want.

I think I more or less answered your questions.

DOMINIQUE VOYNET: Thank you. Would you go on?

ANDREAS MOLIN: Well, the first thing is: As a good civil servant I have to say that everything I say now is my personal opinion, not that of my government. I think that it is important for the debate to clearly distinguish between the position on nuclear power as such and the position on the Euratom Treaty. If we intertwine that we will end up nowhere. From my perspective, from the Austrian perspective, it is clear that we are anti-nuclear. We don't like nuclear power and we do think that we have very good arguments against it, but of course other people quote arguments in favour. That has nothing to do with questioning the Treaty in the form as it stands now almost unchanged for some fifty years.

I have not said that I do see a confrontation of the Presidency or the incoming Presidency with the Commission. It is not there. I mean, we have a very delicate balance of power between the Parliament, the Commission and the Council. Of course each of these institutions has their own agenda in institutional terms. It would just be to ignore reality if we said that they are just working for the sake of the good, it is simply not true. There are institutional power games, of course there are. But we, in terms of the Austrian Presidency and in terms of the Commission, we have areas where we have similar interest or joined interest, seemingly with respect to the nuclear package, and we have areas where we do not agree, particularly on the research program. But there is no natural antagonism or fundamental dispute or something like that. I agree with you that as a Presidency you are not only bound to what the Commission offers you to do. You have some room of manoeuvre in terms of political initiatives and as I said, maybe I have been too defensive in my first intervention. If we see an opportunity to do something, we will use it. Lately we have been sitting together several times, my team and others, trying to consider options, if there is anything reasonable we can do to move things forward. That has not come to a final result, so I cannot announce now, what we are going to do. But we try to consider also the changes on the European scene to see if we can do something.

You raised two particular issues. One is the 20th anniversary of Chernobyl and in particular the question of the transport of waste, if I understand it correctly, but this is not exactly in my dossier, so I might be mistaken. The very question of the rules under which conditions nuclear waste can be shipped out of the European Union is in the heart of the discussions on the Directive which is currently still on the table of the Council. It might be that the UK Presidency will finish the dossier. We will see. It might also end up with us. I believe that we are well aware of this question. With regard to Chernobyl, honestly speaking it is difficult to do something reasonable. If you look at the calendar of events, there are so many conferences and symposiums of all kinds of orientation that it does not really make sense for the Presidency to add just another one. This would simply be a waste of money, so I am a little bit reluctant to say that we are really considering a Presidency initiative in terms of the Chernobyl anniversary. But we will see. Maybe we will find something that is reasonable and has an added value. It makes no sense to have the same experts on another occasion

to come with the same statements and the same disputes, which they do for months. I mean, if you look at the calendar they started just in Vienna, which in the Austrian point of view was a rather strange event, but be it as it may, and it will go over and over next year.

I will pick up your idea regarding the discharge of radioactivity to the seas: On the one hand we lack experience, because we are not a country having a coast, on the other hand maybe this is an opportunity to act as a middleman, because we have no vested interests on the Austrian side, so I promise you to look into that. It is a new idea for me.

As I said, we have no direct confrontation or dispute with the Commission, but sometimes it is a little bit difficult to work with the Commission. I have to admit that. I mean, there is an excuse for that because we are all waiting in the scene for the new Director General of the DG TREN. As far as I know he is not yet there, so we don't know where he will be heading for. The Director General has a certain impact. Mr. Lamoureux was a really strong person and he had a certain agenda. On the other hand, yes, we were surprisingly enough in favour of the nuclear package, but to put things right: We were in favour of the Commission taking the initiative and raising the issue and starting a discussion. We were not so much pleased by the provisions in your proposal. I have to say that clearly. And honestly speaking, at least from our point of view, when we got to the first text we were a bit lost. The subsequent debate on the Council level showed that the proposal was not – I hope I am not too impolite – it was not really well prepared. To pick two examples: The one is with the money for decommissioning. That is a real urgent issue. And from the Austrian point of view, it is absolutely clear that we are convinced that the money for the decommissioning should come from the power generation, not from tax-payers money, which in the end will increase the price of nuclear electricity, but that is market. It has to be insured that the money is there when it is needed, because it will be needed in a few decades. And nobody knows if any of the power companies that are operating today, owning nuclear power plants, will still be there. So you need something that is to a certain extent outside the grip of the power companies, to save the money for the future. And this is also important: It must not be misused to distort the electricity market right now, because that is exactly what has happened in recent years. Those power companies, having already assets for decommissioning, used the money to buy anything they could get on the market in terms of smaller companies. This is not exactly what we like very much. But to a certain extent that was part of the Commission's proposal and we welcome that. But it was immediately turned down by the legal experts who said that you cannot base this on the Euratom Treaty, because the Euratom Treaty has no provisions on competition and that is correct. So it was kicked out within a few hours of discussion. That is what I mean when I say that it seems to be not well prepared. I mean, the Commission's legal experts are really good and the people in its legal service know their job and they could have said in a minute that this is a shaky thing and that there might be opposition to it.

The other thing where I think that this initiative was not well prepared is the following: The original proposal would have set up some kind of missions headed by the Commission, going out to Member States to monitor – what? It was never clear in the debate, what would they do? I mean, it was fairly clear that the Commission could not act as a super-regulator. None of the Member States would have accepted that, simply. To say to a chief regulator, now you have a super-regulator above you, no government will accept that. We have an example, which works to a certain extent in that way and that is Germany. If you look a little bit more in detail into the German situation, the dispute between the Federal Ministry and the authorities in the provinces on the nuclear safety issues, I mean, this is a never-ending story and it is not exactly a model for a European system.

On the other hand, it was not clear: What should they do? Should they just monitor the implementation of the Directive as such or monitor the work of the regulator? Until the end, until basically this whole package was put on the shelf of the refrigerator with the rest for the next two years, I suppose, it never really became evident, at least for us. So this is what I mean: Sometimes I would welcome the Commission to be even more active and better prepared.

Now, with regard to the Euratom, something has not been touched in the discussion. This is really my personal opinion. Apart from all the debate on democracy, where I think it is clear, that we need the participation of the European Parliament, which is perhaps not the type of democracy that the European citizens would like to have, but it would be a major step forward. The European Parliament is in the decision-making process just as with all the other policies of the European Union. Just to mention one tiny element in the Treaty which is outdated because it costs a lot of money: That is the European Supply Agency. Still, I mean, at the time when this began, at the time when this Treaty was written, people thought that uranium was going to be a scarce resource in the future, because nuclear power would explode in term of market channelling. And we need uranium, uranium, uranium. To avoid conflict we need management of this resource, therefore ownership must rest in the European Atomic Community and an institution, an office with a lot of administration should care for appropriate equal distribution. That is still there. That is a lot of civil servants, costing a lot of money, in my view for nothing. I mean, we would need these people desperately maybe in the area of nuclear safety, but not to regulate the uranium market. There are other scarce commodities, which are not regulated by a separate office and it works very well. And in particular in a world, where we are heading for open, transparent markets, this is a dinosaur. I mean, this is just a tiny example, because you could argue that it is not the biggest part of the budget, etc, etc. But it is just a good example of simply outdated provisions of this Treaty.

DOMINIQUE VOYNET: Nina Commeau-Yannoussis wants to answer and then it will be back to you.

NINA COMMEAU-YANNOUSSIS: OK, I will begin with the Euratom Supply Agency. I don't know if it is a dinosaur. I have never heard that ten persons are a dinosaur. You are right that in the Euratom Supply Agency there are some aspects of the activity which are mentioned in Euratom Treaty that are not so important as the present activity of the Agency. But there are not a lot of persons, not more than ten. One Director, one Head of Unit and some field servants.

The other thing is: I do not agree that it is not a useful institution or organ of Euratom, not because some of the aspects of the activity provided in the Euratom Treaty are of no use now, but because they have the role to know exactly, what is the market? And as we know, the European Union is importing more or less 80% or 90% of our uranium needs as natural uranium or enriched uranium. So they know the market and when there are some problems, they are here to control and to say if something is wrong or not. And they are negotiating with third countries. It is an important aspect. They defend European Union industry as well as enrichment industry. Of course, if you are against nuclear, you will say, why do you advocate for the European industry? But nevertheless, it is a part of our industry and the European industry is one of the most developed. It favours imports, technological imports, and I believe that if European industry is not developed, somewhere else in the world there will be some kind of development and I believe that our industry is safer than other industry in the world. So I think that the Euratom Supply Agency in the present configuration of the system is a useful institution and it is not a dinosaur. That is all.

I don't know if it is very useful to come back to the nuclear package, well prepared or not – you can have this opinion. The idea of the nuclear package was of course to have more community legislation on safety. It was not only the opinion of the Commission, it was an opinion prepared also with other actors, that we have to act on two aspects, which are decommissioning and the control of nuclear safety. I don't believe that in the proposal Directive it was not clear what we wanted with respect to nuclear safety. It was very clear, but of course the opinions were different. Yes, I agree with you it was not possible, it is not possible even today after a long debate and perhaps it is not useful to have a super-regulatory nuclear authority. But a group of controlling teams of old European authorities, it would be a good thing. And in fact, it was a transposition of what has been made for the new candidate countries during the negotiations. A team of regulators made their opinion on the new Member States' nuclear power plants. We thought that it is a good thing to transpose if the 15 Member States could make this control of nuclear safety in the candidate countries. Why can we not transpose this method for all 25 Member States? In one sense, it is even fair to do that.

OK, in decommissioning funds there is of course an aspect of internal market and I agree with that, but we believe that the most important thing, even if I know that the European Parliament was arguing that it should be a proposal on the EC Treaty, but we consider what is more important, the fusion of the market or nuclear safety? We consider that it is nuclear safety. That is why we proposed the decommissioning funds under the Euratom Treaty.

DOMINIQUE VOYNET: Thank you. We won't have a lot of time and I we go on working this afternoon, so please, let me know if you want to speak now. Then it will be up to you.

ANTONY FROGGATT (*question from the floor*)**:** Yes, it is just a question of clarification. You mentioned the Penelope Paper or the Penelope project, which was headed by Francois Lamoureux, who is Director General of GD TREN. This effectively called for or suggested the abolishment of Euratom and replacing it with a civil nuclear act, retaining the various parts we talked about, the safeguards, etc. Why didn't the Commission support this?

NINA COMMEAU-YANNOUSSIS: It is a complicated question.

DOMINIQUE VOYNET: Will you answer everybody then, Madame?

CHARLY HULTÉN (*question from the floor*)**:** It is actually a request to Andreas Molin. If you do consider emissions to the sea, don't forget the Baltic. I am asking this on behalf of all of us here in the north. Thank you.

DOMINIQUE VOYNET: Other questions?

PETER BRAZEL (*question from the floor*)**:** It is just in relation to this interest strategy. Obviously, Ireland has a particular interest. We have a coastline and a near-neighbour, who we think is a dirty neighbour. I know you made a virtue out of firm support for this interest strategy. That it is time now to be developed until 2020 or to be implemented by 2020, but the reality of the situation, certainly in Ireland's view, is that France is still proven very difficult in the negotiations on the methodology, etc. I just want to hear your views on that, given the political situation in France.

DOMINIQUE VOYNET: I know that situation and I regret it, but I am no more a Minister, but I do hope for something better in 2007 and I need the confidence of the voters for it. Thank you. Who wants to answer?

NINA COMMEAU-YANNOUSSIS: OK, very quickly on Penelope. For me this example was just to say that in the Commission we have done this exercise and that in fact we come to the conclusion that some aspects of the Euratom Treaty are very useful. And as you know if you have read it, we took really some text out of the Euratom Treaty without changing a word. That is all.

But I cannot answer the other question, why it was not supported by the Commission. I think that it was supported in one sense, but it is history now.

ANDREAS MOLIN: I just can assure you, that if we decide to pick up the issue, which I can't tell you at the moment, we will have to look at the map, then we will not limit it to a certain part of the seas around Europe. If we do it, we will have to do it on a general basis, of course. I have to reserve looking into that in more detail, because this is a complicated issue and again, we have to help the situation, not just get a nice press or something like that.

DOMINIQUE VOYNET: Thank you very much (*applause from the audience*).