

# THE POLITICAL CONTEXT OF THE EURATOM TREATY NEGOTIATIONS: ITS INFLUENCE ON LEGAL ASPECTS

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# A puzzle

- **EURATOM's experience: a useful precedent?**
  - Euratom only regional framework in charge of controlling nuclear activities in cooperation with the IAEA
- **Still**
  - Europe one of the most nuclearized region
- Can confidence-building measures (CBMs) like those included in EURATOM lead to nuclear disarmament?

# Questions

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- **What were EURATOM's political objectives?**
  - Are these objectives compatible with the present goal of forming a WMD Free Zone in the Middle East?
- **What legal tools were designed to pursue these objectives?**
- **What is interesting in the Euratom Treaty for the Middle East (and Europe...) today?**

# The geo-political context pre-1954

- **The balance of power in Western Europe**
  - ▣ Need to limit German industrial war-making capacity
  - ▣ European Coal and Steel Community Treaty (1951 → 1952)
- **The Cold War in Europe**
  - ▣ West German
  - ▣ European Defense Community Treaty (1952)
- **The decolonization wars in the French Empire**
  - ▣ France kept intact its sovereignty over colonial wars
  - ▣ France's non-European territories (Algeria) would fall outside the EDC Treaty (accepted by the US but not by Germany)

# The uncertain times: after 1954



- **The balance of power in Western Europe**
  - ▣ Rejection of EDC Treaty frees West German nuclear development → weak controls
- **The Cold War in Europe**
  - ▣ West German rearmament takes place directly in NATO  
→ France loses its veto as an occupying power
- **The decolonization wars in the French Empire**
  - ▣ End of Indochina war → intense warfare in Algeria

# The Euratom Treaty objectives

## Official goals in 1955 (Messina):

- To accelerate the growth of European nuclear industries by pooling civilian and dual use resources
- To reinforce Europe's control over West German nuclear activities
- To stay away from military objectives in order to limit tensions between France and its allies



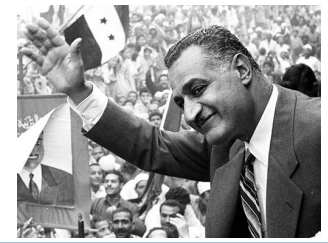
Eisenhower and Monnet

# The awakening: the Suez Crisis



Before the Crisis	After the Crisis
France believed the US would support its policies despite some limits in the European integration process	
France did not <i>really</i> see West Germany as an equal in military & nuclear affairs	
France wanted to remain free of interference in its colonial wars and nuclear affairs	

# The awakening: the Suez Crisis



## Before the Crisis

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France did not *really* see West Germany as an equal in military & nuclear affairs

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## After the Crisis

France realized US help would be related to its progress in European integration

France realized West Germany would be its only partner in military affairs

France agreed to enroll West Germany (and Italy) more closely in its nuclear activities

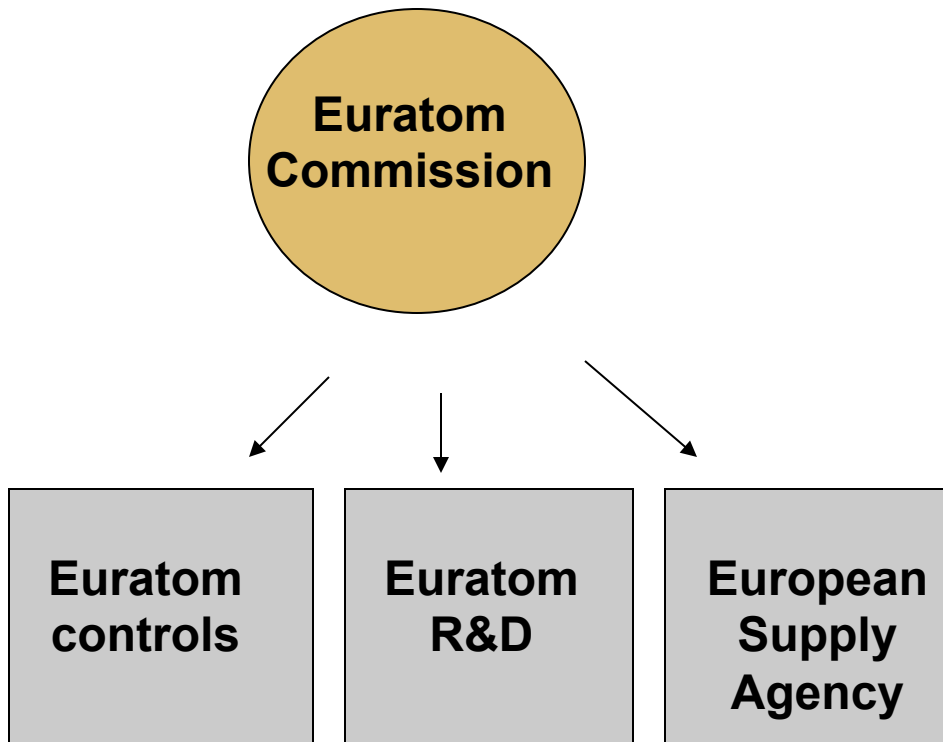


# The problem of discrimination in EURATOM

- Legal situation:
    - ▣ Germany and Italy cannot produce nuclear weapons components on their territory
  - Risk:
    - ▣ If Euratom extends to all ‘peaceful’ activities, then, Germany and Italy have to *report all of their activities to others*
- Legal situation:
    - ▣ France can and does plan on producing nuclear weapons components on its territory
  - Risk:
    - ▣ If France declares that some activities are of a ‘military’ nature (even if dual-use), *France does not have to report them to others*

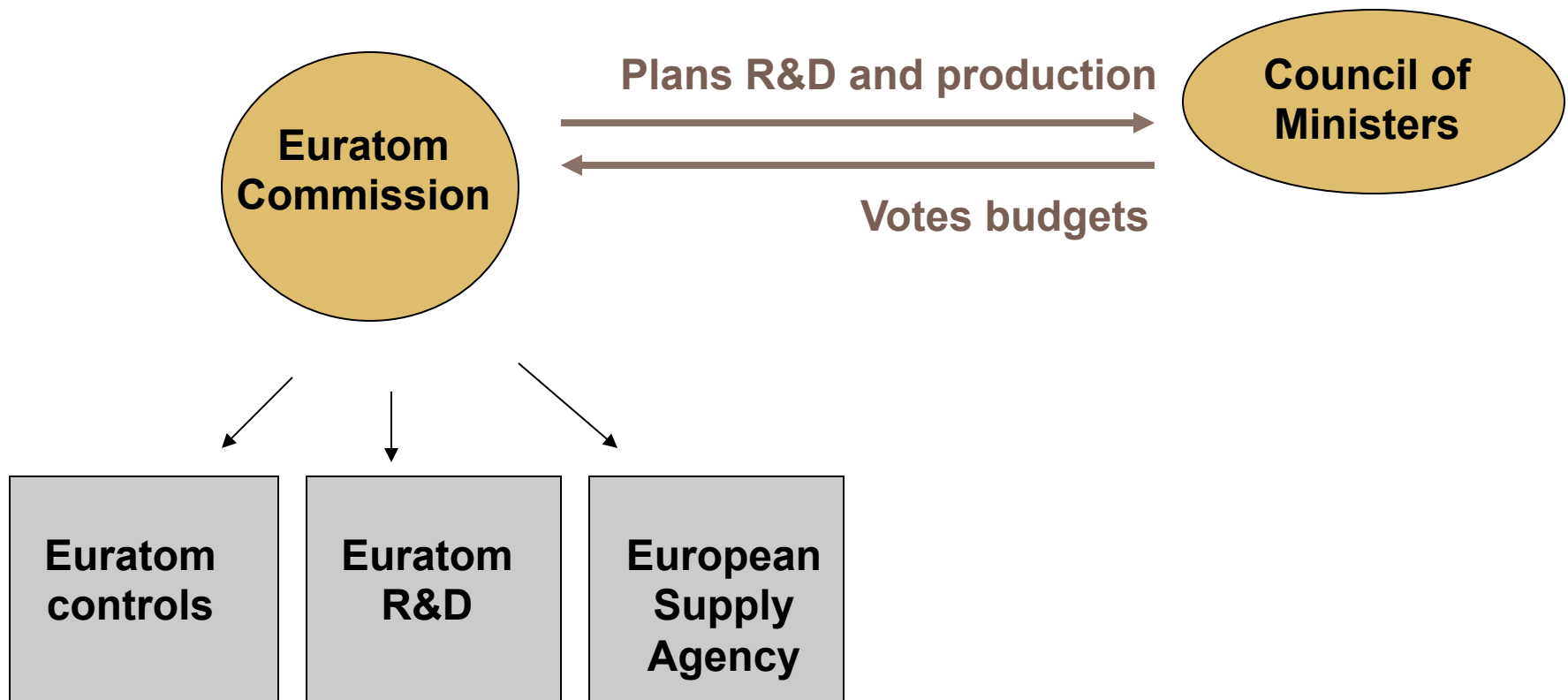
# Toward Europe's autonomy: Step 1

For **peaceful** nuclear activities



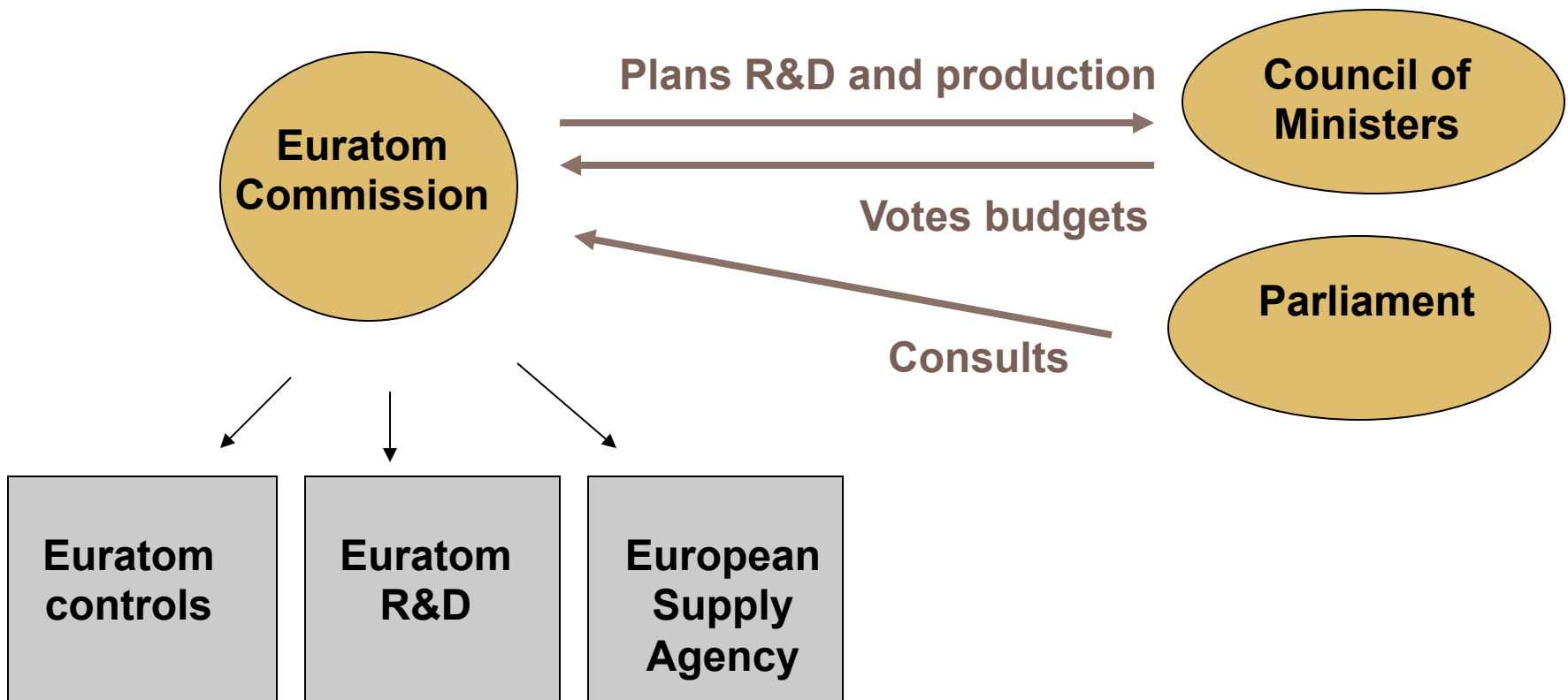
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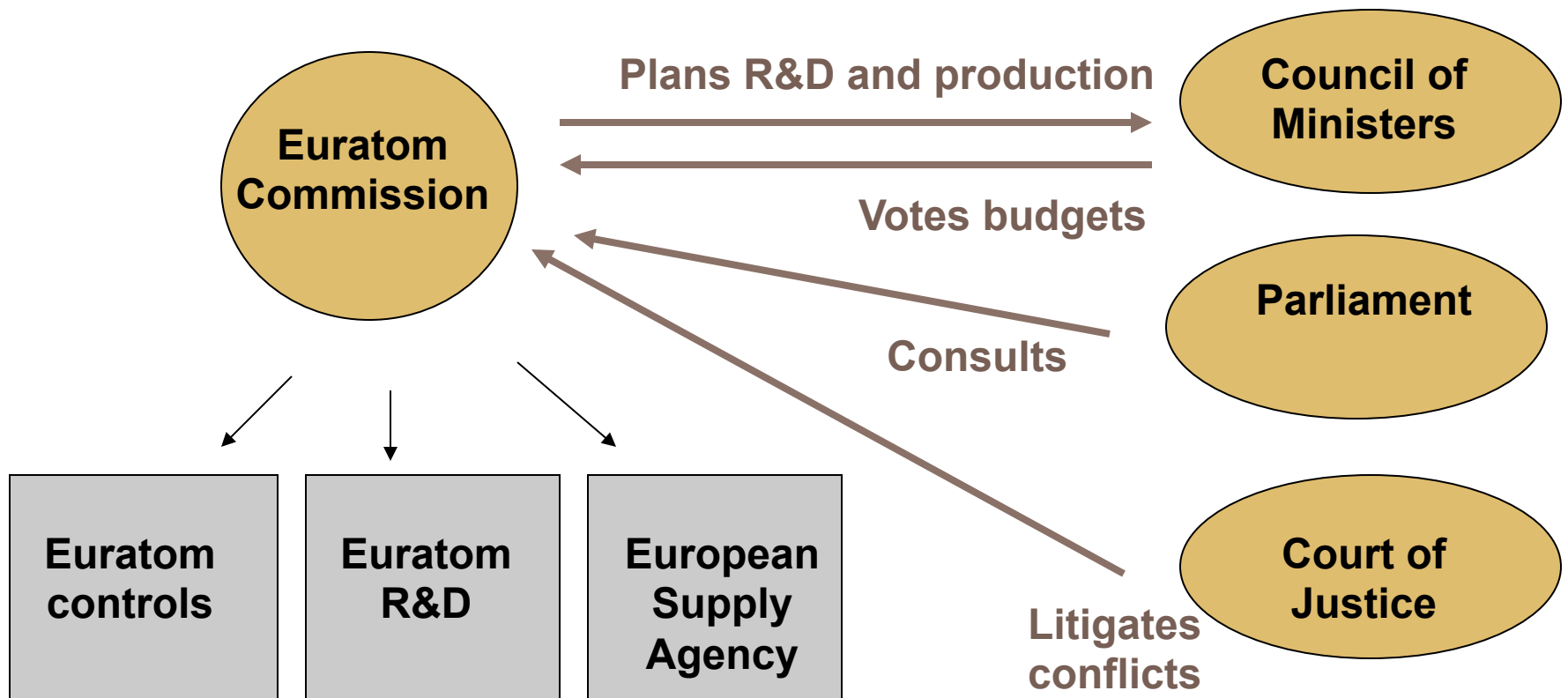
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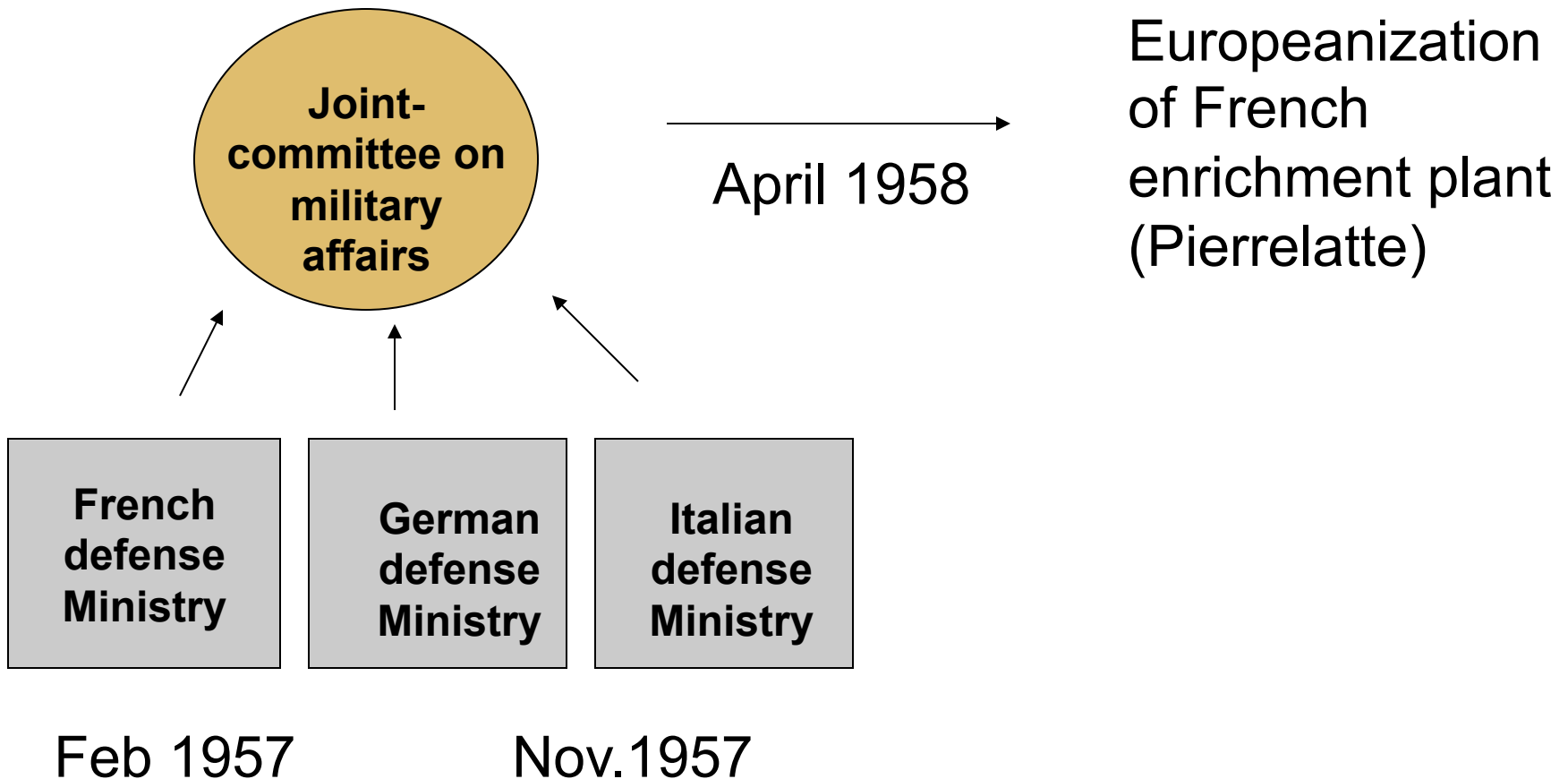
# Toward Europe's autonomy: Step 1

For **peaceful** nuclear activities



# Toward Europe's autonomy: Step 1

For **military** nuclear activities



# Toward Europe's autonomy: Step 2

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**1958:**

**US-Euratom Treaty**

**UK-Euratom Treaty**

**Canada-Euratom Treaty**

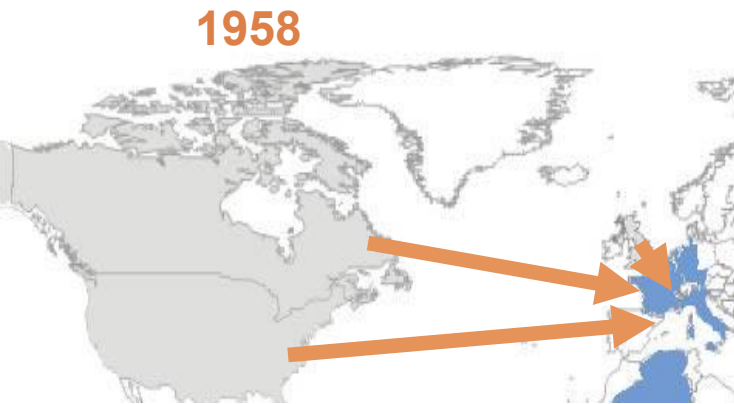
# Toward Europe's autonomy: Step 2

**1958:**

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- Nuclear exporters agreed:
  - to sell fuels to Euratom
  - to let Euratom control all materials
- Nuclear weapons sharing agreements were signed between NATO members



# Tomorrow: a new regional organization in the South Mediterranean?

- **Control** the circulation of fissile materials in a region?
- **Co-manage** sensitive (R&D) activities with fissile materials?
- **Ensure access** to fissile materials produced abroad?



# Euratom controls : a model ?

ADVANTAGE	DISADVANTAGE
<i>Transparency</i> : detects disappearance/theft of materials	No nonproliferation goals, but complemented since IAEA-EURATOM SA

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<p><i>Political accountability</i>: changes decided jointly at the supranational level (see NPT – EURATOM negotiations)</p>	<p>No disarmament goals, and in fact, hidden nuclear armament goals, so no experience in controlled disarmament</p>
<p><i>Less controversial/politicized</i> than International Agency (accused of spying for the West...)</p>	<p>Many controversies erupted over the ‘peaceful’ (controlled) vs. ‘military’ (uncontrolled) boundary after France cancelled hidden military cooperation</p>

# Euratom 'joint venture': a model ?

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<i>Better long-term planning</i> because autonomy of Commission from national interests	Bad implementation because yearly budgets voted by Council (states killed proposals accepted by prior governments)

# Euratom supply agency: a model?

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<p><i>Mutualization of risk:</i> fuel supply secured at the regional level (higher cost for fuel suppliers if they want to punish one member-state)</p>	<p><i>Loopholes:</i> Voluntary basis and possibility to exit the common framework in 'times of emergency'</p>

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<i>Indirect nonproliferation effect:</i> decreases the incentive for states to build their own enrichment plants	Not strong enough to prevent states from securing a right to dual use activities by imposing a de facto situation (URENCO)



# Conclusion

- A **regional agency** seems necessary to ensure the implementation/verification of the **declared objectives** of a WMD Free Zone Treaty
  - ▣ Euratom provides a **unique precedent for the verification** of declared nuclear activities, but no experience in nuclear (chemical/biological) disarmament
- Defining a *legitimate* and *effective* **governance structure** for that Zone is the most important task:
  - ▣ Adaptability to new goals (Council with QMV?)
  - ▣ Openness to newcomers (incremental process?)
  - ▣ Possibility to litigate conflicts of interpretation (Court?)