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

- 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
### The awakening: the Suez Crisis

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

- Euratom Commission
  - Euratom controls
  - Euratom R&D
  - European Supply Agency
Toward Europe’s autonomy: Step 1

For **peaceful** nuclear activities

- Euratom Commission
- Plans R&D and production
- Votes budgets
- Council of Ministers

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For **peaceful** nuclear activities

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- Council of Ministers
- Parliament
- Court of Justice
- Euratom controls
- Euratom R&D
- European Supply Agency
- Litigates conflicts

For peaceful nuclear activities
Toward Europe’s autonomy: Step 1

For military nuclear activities

Joint-committee on military affairs

Europeanization of French enrichment plant (Pierrelatte)

- French defense Ministry: Feb 1957
- German defense Ministry: Nov. 1957
Toward Europe’s autonomy: Step 2

1958:

US-Euratom Treaty
UK-Euratom Treaty
Canada-Euratom Treaty
Toward Europe’s autonomy: Step 2

1958:
- US-Euratom Treaty
- UK-Euratom Treaty
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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?

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<td><strong>Less controversial/politicized than International Agency (accused of spying for the West...)</strong></td>
<td>Many controversies erupted over the ‘peaceful’ (controlled) vs. ‘military’ (uncontrolled) boundary after France cancelled hidden military cooperation</td>
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<td><strong>Better long-term planning</strong> because autonomy of Commission from national interests</td>
<td>Bad implementation because yearly budgets voted by Council (states killed proposals accepted by prior governments)</td>
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<td><em>Indirect nonproliferation effect</em>: decreases the incentive for states to build their own enrichment plants</td>
<td>Not strong enough to prevent states from securing a right to dual use activities by imposing a de facto situation (URENCO)</td>
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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?)