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## Press Briefing Note

### What is the Hinkley Point C (HPC) nuclear subsidy case and why is it so important?

The European Commission plans this Wednesday 8 October to take a final state aid decision on:

#### **THE UK's €20 BILLION OFFER ...**

The UK government has offered a package of operating subsidies and other measures to enable the construction of two new nuclear power plants at Hinkley Point in SW England. The twin 1600 megawatt reactors would be built and owned by a consortium of four firms, two French and two Chinese, with Électricité de France (EDF) in the lead.

Estimated total capital spend would be around €20 billion (£16bn). The state aid over the life-time of the main deal - approximately a decade in construction and then 35 years operations - also totals around €20 billion at present estimates.

Most of this cash-flow would be via a guaranteed fixed 'strike' price to EDF of around €115 per megawatt hour of output (£92.50/mwh), approximately double the current wholesale power price today. This guaranteed price rises in line with inflation and so would reach around €350/mwh (£279/mwh) in the year 2058 when production payments would end.

The long-term costs of managing radioactive waste (e.g. used fuel rods) will be shared between the consortium and UK taxpayers under a scheme yet to be finalised.

If the two HPC units go ahead, the UK aims for ten more units with similar long-term operating subsidies spread around England and Wales. If realised, this would represent around one-third of all UK power supply operating outside EU common market rules for around half a century. In 2013 Energy Commissioner Oettinger describe the overall concept, led by a Conservative administration in London, as "Soviet" ([link](#)).

#### **... THAT COULD LAUNCH 'A ZOMBIE NUCLEAR RENAISSANCE' ...**

The HPC funding plan would be the first of its kind. If the Commission permits it under EU law, and if it

were not stopped later by the Courts, then the scheme would soon be copied elsewhere. EU governments in about a quarter of member states have said they want to see new nuclear plants built in future years including those in the Czech Republic, Poland, Slovakia, Hungary, Romania and Bulgaria. Even though so far all these political projects have a stop-start-stop-start character, if normal competition rules are set aside and public money becomes no barrier, then all would regain momentum and eventually stagger into life.

### **... WHILE ABANDONING EUROPE'S SINGLE ENERGY MARKET ...**

For more than ten years now, the common rules of the internal energy market have required a far greater degree of competition on Europe's electricity systems and gas networks, especially for investments. For new electricity generating capacity, member states each adopted consent criteria (e.g. 'gas is allowed, but no new coal') but once this is done all firms must be treated equally, usually on a first-come first-served basis. (cf. Article 7, Directive 2009/72).

If for any reason this market-based approach is not working well enough, member states may buy extra capacity from traditional power plants though only if national authorities use an official tender procedure. The UK failed to conduct a tender procedure and so has violated the rules in the so-called 'third package' of energy market legislation. DG Competition is proposing in effect to ignore this infringement and allow the UK to break the law. (cf. Article 8, Ibid.)

By failing to properly apply Articles 7 and 8 (i.e Chapter 3) of the electricity market common rules, the UK has also unfairly excluded e.g. new renewable capacity, new gas capacity, or existing capacity in neighbouring states from providing more competitive energy in UK. This includes e.g. non-EU EEA states such as Norway.

Most if not all of these alternative options could be realised more quickly thus helping the UK to address its medium-term security of supply concerns, which HPC taking ten or more years to construct would be unable to do.

### **... AND THE RULE OF LAW ...**

By proposing such a course of action, the EC's treatment of HPC is in stark contrast to its treatment of Gazprom's new South Stream project, which also violates '3rd package' rules. In the later case the EC called in May for construction of the pipeline to be suspended until it is brought into line with the law.

It is wholly inconsistent for the Commission to treat infringement of the same set of market laws in such different ways. Under the EU treaties, the Commission's role is to be the guardian of the rule of law. It is acting unlawfully and opens itself to justified claims of bias and hypocrisy when it does not apply the same laws equally to everyone in the single market.

### **... AND WHILE TRYING TO USE EURATOM LAW AS A GET-OF-JAIL-FREE TICKET.**

Compared to the Commission's detailed and very critical analysis of the HPC plan last year, recent EC moves to approve the scheme in effect perform a complete U-turn.

As a new and different analysis based on normal state aid principles (e.g. proportionality) would be

impossible, the draft decision now on the table relies largely the outdated 1957 Euratom treaty being used in effect as a get-out-of-jail free ticket. This enormous fudging of the law is a scandal that firstly is not justified by the actual text of Euratom (which in reality is much weaker) and secondly is likely to backfire if or when any positive decision is challenged in the EU Court of Justice.

Euratom is no basis and no excuse to allow a zombie nuclear renaissance in Europe.

The conclusion of all of the above is that, when it meets on Wednesday, the European Commission must reject any approval of the UK's Hinkley Point state aid offer.

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