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## **Hinkley point C: new definition of British national security measures**

*Eva Faltusová*

The first case of civil nuclear technology security will be examined from British point of view. The British approach and measures established together with new nuclear project Hinkley Point C represent an important turning point in this strategic national security field.

As part of the general British energy transition project, the new nuclear project at Hinkley Point C first got underway in 2008, and from the beginning has been accompanied by problems with financing. One of the first problems affecting national security was the financial deal between the British and EDF premised on a fixed price (“strike price”) per MWh. Such a system disrupts national security because the price per unit rises together with inflation and total price, which endangers consumers and block any further intervention to the national energy market which remains blocked for next years while not being able to react to countercyclical changes. In a nutshell, it will be consumers who will pay for Hinkley over approximately 35 years.<sup>1</sup> Even Gérard Magnin, one of the French EDF’s former board members, called the construction “very risky”<sup>2</sup> and pointed out that British consumers effectively pay for the renewal of France’s nuclear industry.

<sup>1</sup> Hinkley Point C National Audit, Parliamentary Public Statement, 20/11/2017, <https://publications.parliament.uk/pa/cm201719/cmselect/cmpubacc/393/39306.htm>

<sup>2</sup> EDF board member resigns ahead of Hinkley Point decision, Kiran Stacey and Robert Williams, 28/07/2016, Financial Times, <https://www.ft.com/content/3209004a-54ca-11e6-befd-2fc0c26b3c60>

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This original scheme was marked by the Public Accounts Committees<sup>3</sup> and the European Commission as clearly unfair behaviour on the European Energy Market. Consequently, the European Commission launched an investigation on state aid to the energy sector. The state aid was considered illegal according to some critiques, but after some modifications by the British side<sup>4</sup> it was claimed as legal by the EC in 2014.<sup>5</sup> Finally, the deal was modified so that the project cost will be distributed more evenly among the consumers.

Nevertheless, the project suffered further from financial uncertainty, and in 2015 the state-owned Chinese company CGN joined the game by purchasing 1/3 ownership from NNB Generation Company, a subsidiary of EDF. This new deal was announced by George Osborne during a press conference in Beijing. This Sino-British cooperation was presented as a “crucial historical juncture”<sup>6</sup> for China, but in fact it is a real threat to British national security, because Hinkley is only the start of a string of nuclear power plants in the UK. Secondly, in these types of projects there is a dangerous dependence on the supplier over the long term, because of technology, fuel and other aspects. In addition, Chinese CGN got a green light to operate in the British energy market while being a non-western firm. Further projects such as Bradwell and Sizewell are of great interest for Chinese CGN, which was encouraged by the Cameron-Osborne duo, who declared a “golden age”<sup>7</sup> for

<sup>3</sup> No one protected interests of consumers in Hinkley power deal, Public accounts committee, 22/11/2017, <https://www.parliament.uk/business/committees/committees-a-z/commons-select/public-accounts-committee/news-parliament-2017/hinkley-point-c-report-published-17-19/>

<sup>4</sup> European Commission Press release, 8/10/2014 [https://europa.eu/rapid/press-release\\_IP-14-1093\\_en.htm](https://europa.eu/rapid/press-release_IP-14-1093_en.htm)

<sup>5</sup> "European Commission likely to find Hinkley aid illegal: Europe". Platts. Oliver Adelman (8 May 2014). <https://www.spglobal.com/platts/en/market-insights/latest-news/electric-power/050814-european-commission-likely-to-find-hinkley-aid-illegal-europe>

<sup>6</sup>Hinkley Point is a test of mutual trust between UK and China, LIU XIAOMING, 08/08/2016, Financial Times <https://www.ft.com/content/b8bc62dc-5d74-11e6-bb77-a121aa8abd95>

<sup>7</sup> Beijing signals end of China-UK „Golden age“, Jonathan Ford and James Kyngé, 06/01/2017, Financial Times <https://www.ft.com/content/4ab22b66-d42d-11e6-9341-7393bb2e1b51>

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Chinese investments. In fact, the UK negotiated relatively bad conditions, because without Chinese or other outside investment it would be complicated to continue the project just with EDF. Consequently, these investments are rather untrustworthy because of their associated diplomatic and economic leverage and instrumentalisation for increasing Chinese “soft power,” which is an effective tool for influencing and controlling national affairs. These geopolitical motives are why Chinese investors have imposed themselves into this rather technical field.

When Theresa May became prime minister, one of her first acts was to pause and delay Hinkley because of national security concerns connected with Chinese implication in the project.<sup>8</sup> She announced further planned restrictions on FDI in critical national infrastructure review of whole investment project.<sup>9</sup> The accession of May marked a breakdown of the Chinese “golden age”, whereas Liu Xiaoming, China’s ambassador to the UK, reacted by pointing out the importance of Sino-British cooperation and the Chinese presence in the nuclear sector. It is crucial for China to present itself as a superpower, and Hinkley and other British projects offer an opportunity to gain a foothold in the British market. On other markets CGN faces problems, notably due to accusations of technological espionage in the US.<sup>10</sup> Recently, the CGN was blacklisted along with three other subsidiaries by the US, so it is in the UK’s interest to protect its own safety.<sup>11</sup>

<sup>8</sup> Beijing signals end of China-UK „Golden age“, Jonathan Ford and James Kynge, 06/01/2017, Financial Times <https://www.ft.com/content/4ab22b66-d42d-11e6-9341-7393bb2e1b51>

<sup>9</sup> UK's May worried by China investment, intervened to delay Hinkley, Kate Holton, William James, 30/07/2016, Reuters, <https://www.reuters.com/article/us-edf-britain-nuclear/uks-may-worried-by-china-investment-intervened-to-delay-hinkley-idUSKCN10A0HT>

<sup>10</sup> Chinese energy firm linked to Hinkley Point facing charges of nuclear espionage, Telegraph Reporters, The Telegraph, 11/08/2016 <https://www.telegraph.co.uk/news/2016/08/11/chinese-energy-firm-linked-to-hinkley-point-facing-charges-of-nu/>

<sup>11</sup> US blacklists Chinese nuclear company over theft of military technologies, Christian Shepherd, Hong Kong, 15/08/2019, <https://www.ft.com/content/9601ebda-bf24-11e9-b350-db00d509634e>

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### New legislation and implementation of protective mechanisms

In 2016, the UK government issued a statement announcing the new deal, which emphasizes a new legal framework for FDI in British critical infrastructure, and which “will include nuclear energy and apply after Hinkley.”<sup>12</sup> The British government implies by this legislation to allow EDF to retain a controlling stake until its construction. “Having thoroughly reviewed the proposal for Hinkley Point C, we will introduce a series of measures to enhance security and will ensure Hinkley cannot change hands without the Government’s agreement,” said Business Secretary Greg Clark in the statement.<sup>13</sup> In fact, this means a sort of insurance policy for the Brits, allowing them to intervene in any further sales of stakes in the project. In all future projects, the government must always play a role in stakeholders’ actions while maintaining its own “golden share,” thus controlling this strategic investment and protecting national security. Nowadays, all public interest cases should be controlled in detail and the Secretary of State can send a special evaluative intervention when small changes in sensitive information, technology or ownership in other strategic fields occur.

In July 2018 the UK government also published a National Security and Investment white paper,<sup>14</sup> which underlines the key role of the British government in mitigating national security risks under a regime of voluntary notification. In addition, the

<sup>12</sup> Press Release: UK govt statement on EDF Hinkley Point deal, reported by Andrew Callus, 15/09/2016, <https://uk.reuters.com/article/uk-govt-statement-confirms-new-hinkley-p-idUKP6N17100H>

<sup>13</sup> Press Release: UK govt statement on EDF Hinkley Point deal, reported by Andrew Callus, 15/09/2016, <https://uk.reuters.com/article/uk-govt-statement-confirms-new-hinkley-p-idUKP6N17100H>

<sup>14</sup>National Security and Investment, presented to Parliament by the Secretary of State for Business, Energy and Industrial Strategy by Command of Her Majesty, July 2018 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/728310/20180723\\_-\\_National\\_security\\_and\\_investment\\_-\\_final\\_version\\_for\\_printing\\_\\_1\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/728310/20180723_-_National_security_and_investment_-_final_version_for_printing__1_.pdf)

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establishment of “trigger events” in the enlarged framework<sup>15</sup> allows the government to intervene when acquisition of more than 25% of shares of the project occurs or when it consists of a special asset (ex. nuclear reactor). In fact, firms in the nuclear field should report small ownership changes and are constantly under supervision of the Office for Nuclear Regulation. Some experts say that it could harm the British economy, because the investor should report all actions in changes of ownership, and that it could even be harmful for European Common law because EU law imposes limits to the legitimate interest for government interventions.<sup>16</sup> Additionally, the “golden share” rule was underlined by the CJEU (Court of Justice of the European Union) as contravening in the “free movement of capital.” However, with Brexit this problem and the resulting complications will be solved.

#### **Clash of interests & financing problems & delays**

When establishing a project in the nuclear sector, it is often faced with conflicts of interest, financial problems and, of course, delays. The Guardian revealed in 2017 that Gordon Brown’s (British prime minister in the period of the first deal on Hinkley Point from 2007-2010) brother was a communications director for EDF. Even if the conflict of interest was not proven, it is still controversial to have a deal with a company in which a PM’s brother holds a top position.<sup>17</sup> In addition, the consultancy LeighFisher was advising the UK government despite being subsidiary

<sup>15</sup> National Security and Investment, White paper 2018, page 45, section 3.91

<sup>16</sup> Is the security whitepaper sensible or risky ?, Liz Loxton, 7/03/2019

<https://economia.icaew.com/technical-update/march-2019/is-the-security-whitepaper-sensible-or-risky>

<sup>17</sup> Hinkley Point the „dreadful deal“ behind the world’s most expensive powerplant, Holly Watt 21/12/2017 <https://www.theguardian.com/news/2017/dec/21/hinkley-point-c-dreadful-deal-behind-worlds-most-expensive-power-plant>

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of Jacobs Engineering group, which has connections with EDF.<sup>18</sup> A National Audit Office report concluded that measures to prevent conflicts of interest were insufficient, so they asked for an organisational separation, but the end result is it can slightly increase the cost of the project. As concerns the project's cost, the price is increasing as the project is further delayed. Considering another project of EDF in Flamanville, where the price has risen from €3.3bn to €10.9bn, the UK should be very careful about Hinkley, because British consumers are already burdened for future decades with the price set for 1MWh at £92, 50. Risks of having 1MW hour at a price over £100 are quite high, because of inflation and possible further delays. All in all, a decade after the green light for Hinkley Point C, the price will exceed £20bn, which is already almost double that suggested in 2008, and it will rise almost yearly from there. And yet the approximate date of delivery is only expected to be 2025.

All in all, Hinkley Point C is a long-lasting project which showed numerous aspects of the nuclear industry to the world and mainly to the British government. Although the UK is trying to do its best with risk management, some threats in long-term dependency, delays and instability still appear. Hopefully, future deals on British nuclear projects will be negotiated and risks mitigated. Finally, it is clear that geopolitics and economics are both playing a major role in this sensitive field of analysis. That is why it is interesting to see other nuclear projects develop, notably in pro-nuclear countries such as CEE countries, which are currently showing interest in building new blocks and in some cases some deals are already concluded.

<sup>18</sup> **Dr David Lowry**, *Senior Research Fellow, Institute for Resource and Security Studies, Cambridge, MA, US* <http://drdavidlowry.blogspot.com/2017/06/contractors-conflict-of-interest.html>



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*This was the first blog from the series on civil nuclear technology security written by Eva Faltusová.*

Other sources:

The Foreign Direct Investment Regulation Review- Edition 6, October 2018, Alex Potter, Freshfields Bruckhaus Deringer LLP,  
<https://thelawreviews.co.uk/edition/the-foreign-investment-regulation-review-edition-7/1209433/united-kingdom>

How can we pay for new nuclear power stations? Nick Butler, Financial Times 09/09/2019, <https://www.ft.com/content/4b81682e-cf19-11e9-99a4-b5ded7a7fe3f>

EDF ENERGY statement on Hinkley Point C, September 15, 2016  
<https://www.edfenergy.com/energy/nuclear-new-build-projects/hinkley-point-c/news-views/edf-energy-statement>

The Independent, Topic Hinkley Point C,  
<https://www.independent.co.uk/topic/hinkley-point-c>

A letter to Xi Jinping: time to reset relations, Charles Parton, Financial Times, 13/02/2019, <https://www.ft.com/content/1ef26244-2ecf-11e9-8744-e7016697f225>

Chinese ambassador's nuclear safety claims are open to challenge, **Dr David Lowry**, *Senior Research Fellow, Institute for Resource and Security Studies*, 11/08/2016, Financial Times

*Cambridge, MA, US* <https://www.ft.com/content/ac14946c-5e57-11e6-a72a-bd4bf1198c63>

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Hinkley Point is a test of mutual trust between UK and China, LIU XIAOMING, 08/08/2016, Financial Times <https://www.ft.com/content/b8bc62dc-5d74-11e6-bb77-a121aa8abd95>

Britain proposes tougher foreign investment rules to protect national security, Andrew MacAskill, Ben Martin, 23/07/2018, Reuters <https://www.reuters.com/article/us-britain-m-a-rules/britain-proposes-tougher-foreign-investment-rules-to-protect-national-security-idUSKBN1KD2DR>

Quarterly Uranium Market report, 1st quarter 2016, Nuclear Fuel Market Observatory Sector, prepared by Darlusz Kozak, European Commission, [https://ec.europa.eu/euratom/docs/2016\\_1st\\_QR.pdf](https://ec.europa.eu/euratom/docs/2016_1st_QR.pdf)

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