



Council of the
European Union

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LIMITE

RECH 106
ATO 64

DECLASSIFICATION

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Subject: Decision of the Council containing directives for the Commission to conduct negotiations on the establishment of an international framework allowing the ITER (International Thermonuclear Experimental Reactor) EDA (Engineering Design Activities) Parties and qualified third countries to prepare jointly for the future establishment of an ITER legal entity for ITER construction and operation, if and when so decided

Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 30 October 2000
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12628/00

RESTREINT

**RECH 106
ATO 64**

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject : Decision of the Council containing directives for the Commission to conduct negotiations on the establishment of an international framework allowing the ITER (International Thermonuclear Experimental Reactor) EDA (Engineering Design Activities) Parties and qualified third countries to prepare jointly for the future establishment of an ITER legal entity for ITER construction and operation, if and when so decided

COUNCIL DECISION

of

containing directives for the Commission to conduct negotiations on the establishment of an international framework allowing the ITER (International Thermonuclear Experimental Reactor) EDA (Engineering Design Activities) Parties and qualified third countries to prepare jointly for the future establishment of an ITER legal entity for ITER construction and operation, if and when so decided

THE COUNCIL OF THE EUROPEAN UNION

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular the second paragraph of Article 101 thereof,

Having regard to the Agreement on cooperation in the Engineering Design Activities (EDA) for the International Thermonuclear Experimental Reactor (ITER) concluded on 21 July 1992 ¹ (hereinafter referred to as "the ITER EDA Agreement"), Protocol 2 to the ITER EDA Agreement concluded on 21 March 1994 ² and the Amendment extending the ITER EDA Agreement which entered into force on 14 July 1998 ³,

¹ OJ L 244, 26.8.1992, p. 14.

² OJ L 114, 5.5.1994, p. 26.

³ OJ L 335, 10.12.1998, p. 61.

Having regard to the Fifth Framework Programme of the European Atomic Energy Community (Euratom) for research and training activities (1998 - 2002) ¹, and in particular its provisions concerning controlled thermonuclear fusion, and the research and training programme (Euratom) in the field of nuclear energy (1998 - 2002) ², and in particular its provisions concerning the objectives and research and training priorities of the key action on controlled thermonuclear fusion,

Having regard to the proposal from the Commission,

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¹ OJ L 26, 1.2.1999, p. 34.

² OJ L 64, 12.3.1999, p. 142.

Whereas:

- (1) The ITER EDA Agreement among the European Atomic Energy Community, the Government of Japan and the Government of the Russian Federation is due to expire on 21 July 2001.
- (2) The key action on controlled thermonuclear fusion should enhance the European Atomic Energy Community's preparedness, from a scientific, technical, financial and organisational point of view, to decide on, and support, a Next Step device such as ITER after the present generation of fusion devices.
- (3) A full mandate to negotiate an ITER construction agreement cannot be given to the Commission before the content of the 6th Framework Programme is known.
- (4) It would be appropriate to negotiate on the legal aspects of an ITER legal entity separately from the costs and siting issues.
- (5) Some joint legal and administrative activities supported by the appropriate technical expertise are needed for the definition of such a legal entity.
- (6) In view of the above, negotiations should be opened with a view to establishing an appropriate international framework for the execution of the above joint activities,

HAS DECIDED AS FOLLOWS:

Sole Article

Without prejudging any decision on ITER siting and construction, the Commission is hereby authorised to conduct negotiations, according to the directives set out in the Annex, on the establishment of an international framework allowing the ITER EDA Parties and qualified third countries to prepare jointly for the future establishment of an ITER legal entity for ITER construction and operation, if and when so decided.

Done at Brussels,

For the Council
The President

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DIRECTIVES FOR THE COMMISSION TO CONDUCT NEGOTIATIONS ON THE ESTABLISHMENT OF AN INTERNATIONAL FRAMEWORK ALLOWING THE ITER EDA PARTIES AND QUALIFIED THIRD COUNTRIES TO PREPARE JOINTLY FOR THE FUTURE ESTABLISHMENT OF AN ITER LEGAL ENTITY FOR ITER CONSTRUCTION AND OPERATION, IF AND WHEN SO DECIDED

- (1) The Parties to the international framework (hereafter referred to as "the Framework") should be the European Atomic Energy Community (Euratom), including countries participating in the Euratom fusion programme as fully associated third States, the Government of Japan, the Government of the Russian Federation and the Governments of other qualified countries such as Canada and the United States, if they so wish.
- (2) The aim of the Framework should be to allow the Parties to prepare jointly for the future establishment of an ITER Legal Entity (ILE), if and when so decided. A Joint Task Force (JTF) shall be established for this purpose under the Framework.
- (3) The task set out under (2) should in particular encompass draft texts on:
 - (a) the establishment of the ILE under international law,
 - (b) other means to ensure the ILE's institutional independence of the host country's authorities,

- (c) a model Convention between the ILE and the Government of the host country on the system for monitoring nuclear safety and radiation protection within the installation,
- (d) the institutional and managerial structure of the ILE,
- (e) a specimen (site-independent) site agreement including provisions on local technical support,
- (f) privileges and immunities and other advantages which might be granted to the ILE and its staff,
- (g) specimen staffing agreements reflecting the need to encourage mobility between the ILE and the Parties' domestic institutions and industry,
- (h) model regulations and implementing measures governing contributions in kind and funding of the ILE by the Parties,
- (i) provisions on intellectual property rights,
- (j) participation and/or accession of third countries,
- (k) amendments and provisions on dispute settlement,
- (l) the role of the IAEA.

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- (4) The JTF should in particular carry out the following tasks:
- (a) liaise and consult with relevant megaprojects in research and industry in order to capitalise on existing experience in the areas of organisation, decentralisation, etc.
 - (b) develop modes of cost-sharing and credits,
 - (c) identify and describe the relevant rules on procurement in kind and funds,
 - (d) assess the relevant liability and insurance issues,
 - (e) assess the issues concerning the winding-up of the ILE and the decommissioning of ITER,
 - (f) use the appropriate scientific and technical expertise in order to liaise on the detailed design of ITER with the teams of the Parties concerned.
- (5) The Parties should take all the appropriate measures to facilitate the achievement of the JTF's tasks by the end of 2002 at the latest. Each Party should conduct the activities provided for under the Framework subject to its applicable laws and regulations, and should provide resources subject to the availability of appropriate funds. All costs resulting from cooperation under the Framework should be borne by the Party which incurs them.
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