



**COUNCIL OF
THE EUROPEAN UNION**

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**RECH 522
ATO 137
COMPET 800**

NOTE

From:	Joint Research and Atomic Questions Working Party
To:	Permanent Representatives Committee
No. prev. doc.:	14886/13 RECH 457 ATO 115 COMPET 723
No. Cion doc.:	13253/13 RECH 387 ATO 95 COMPET 617 (COM(2013) 607 final)
Subject:	<i>Preparation of the Council ("Competitiveness") of 2-3 December 2013</i> Proposal for a COUNCIL DECISION amending Decision 2007/198/Euratom establishing the European Joint Undertaking for ITER and the Development of Fusion Energy and conferring advantages upon it - Political Agreement

1. The Commission submitted its proposal for a Council Decision amending Decision 2007/198/Euratom establishing the European Joint Undertaking for ITER and the Development of Fusion Energy and conferring advantages upon it¹ on 28 August 2013.
2. The Joint Research and Atomic Questions Working Party discussed the Proposal at several meetings. As a result, the majority of delegations reached on 4 November 2013 an agreement in principle on the text of the proposal as annexed to this document, with the ES delegation having a reservation, the LU and SE delegations having scrutiny reservations, and PL and UK delegations having parliamentary scrutiny reservations.

¹ Doc. 13253/13.

3. There is one technical change placed in the document in comparison with the previous version (doc. 14886/13).
 4. Pending final agreement on the Multi-Annual Financial Framework, the budget figures are still between square brackets.
 5. The Permanent Representatives Committee is therefore called upon to examine the compromise proposal presented by the Presidency with a view to reaching the political agreement in the Council (Competitiveness) meeting of 2-3 December 2013.
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Proposal for a

COUNCIL DECISION

amending Decision 2007/198/Euratom establishing the European Joint Undertaking for ITER and the Development of Fusion Energy and conferring advantages upon it

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular the third and fourth paragraph of Article 47 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Council Decision 2007/198/Euratom² established the European Joint Undertaking for ITER and the Development of Fusion Energy (hereinafter "Joint Undertaking") to provide the contribution of the European Atomic Energy Community (hereinafter "Euratom") to the ITER International Fusion Energy Organisation and the Broader Approach Activities with Japan as well as to prepare and coordinate a programme of activities in preparation for the construction of a demonstration fusion reactor and related facilities.
- (2) Decision 2007/198/Euratom provided a financial reference amount deemed necessary for the Joint Undertaking together with the indicative total contribution of Euratom towards such amount, which should be made available through the Community research and training programmes adopted pursuant to Article 7 of the Treaty.

² Council Decision 2007/198/Euratom of 27 March 2007 establishing the European Joint Undertaking for ITER and the Development of Fusion Energy and conferring advantages upon it (OJ L 90, 30.03.2007, p. 58).

- (3) The resources deemed necessary for the Joint Undertaking during the ITER construction phase, covering the period 2007-2020, amounted in March 2010 to EUR 7 200 000 000 (in 2008 value). In July 2010 the Council of the European Union capped this amount to EUR 6 600 000 000 (in 2008 value).
- (4) The European Parliament and the Council set the maximum level of the Euratom commitments for ITER in the Multiannual Financial Framework for the period 2014-2020 at EUR 2 707 000 000 (in 2011 value).
- (5) It is necessary to amend Decision 2007/198/Euratom to allow the financing of the activities of the Joint Undertaking for the period 2014-2020 from the general budget of the European Union and not through the Euratom research and training programmes.
- (6) Third countries which have concluded a cooperation agreement with Euratom in the field of nuclear energy research, including the controlled nuclear fusion, that associate their respective research programmes with the Euratom programmes are to contribute to the financing of the activities of the Joint Undertaking. Their contribution should be determined in the respective cooperation agreement with Euratom.
- (7) The 2012 fusion roadmap developed by national fusion laboratories has the ultimate aim of supporting ITER design and construction and demonstrating electricity production by fusion around the middle of the century. Therefore, Fusion for Energy should maintain close working relationship with the European entities implementing this roadmap, in order to fulfil its tasks.

- (8) It is also appropriate to update Decision 2007/198/Euratom as regards the provisions on protection of the Union's financial interests.
- (9) It is appropriate to inform the Council and the European Parliament on the implementation of Decision 2007/198/Euratom on the basis of information provided by the Joint Undertaking.
- (10) Decision 2007/198/Euratom should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2007/198/Euratom is amended as follows:

(1) in Article 4 (1), point (c) is replaced by the following:

"(c) as regards the tasks referred to in Article 1(2)(c), in accordance with research and training programmes adopted pursuant to Article 7 of the Treaty or through any other decision adopted by the Council of the European Union."

(2) in Article 4(2), the following subparagraph is added:

"The contribution of third countries which have concluded a cooperation agreement with Euratom in the field of nuclear energy research, including the controlled nuclear fusion, that associate their respective research programmes with the Euratom programmes shall be determined in the respective cooperation agreement with Euratom."

(3) in Article 4, paragraph 3 is replaced by the following:

"3. The Euratom contribution to the Joint Undertaking for the period 2014-2020 is set at [EUR 2 915 015 000] (in current values)."

(4) in Article 4, paragraph 4 is deleted.

(5) the following Article 5a is inserted:

"Article 5a

Protection of Union's Financial Interests

1. The Commission shall take appropriate measures ensuring that, when actions financed under this Decision are implemented, the financial interests of the Union are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by effective checks and, where irregularities are detected, by the recovery of the amounts wrongly paid and, where appropriate, by effective, proportionate and dissuasive penalties.
2. The Commission or its representatives and the Court of Auditors shall have the power of audit, on the basis of documents and on-the-spot checks and inspections, over all grant beneficiaries, contractors, subcontractors and other third parties who have received Euratom funds under this Decision.

3. The European Anti-fraud Office (OLAF) may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Regulation (~~EU, Euratom~~) No ~~1074/1999~~ **883/2013** of the European Parliament and of the Council* and Council Regulation (Euratom, EC) No 2185/96** with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with an agreement or decision or a contract funded under this Decision.

Without prejudice to paragraph 2 and the first subparagraph of this paragraph, cooperation agreements with third countries and international organisations, contracts, agreements and decisions resulting from the application of this Decision shall expressly empower the Commission, the Court of Auditors and the OLAF to conduct audits, on-the-spot checks and inspections.

* ~~Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti Fraud Office (OLAF)~~ **Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999** (OJ L 136, 31.05.1999 **248, 18.9.2013**, p. 1).

** Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2)."

(6) the following Article 5b is inserted:

"Article 5b

Mid-term review

The Commission shall submit to the Council and to the European Parliament, by 31 December 2017, at the latest, a progress report on the implementation of this Decision on the basis of information provided by the Joint Undertaking. That report shall set out the results of the use of the Euratom contribution referred to in Article 2 as regards commitments and expenditure."

Article 2

Entry into force

This Decision shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2014.

Article 3

Addressees

This Decision is addressed to the Member States.

Done at Brussels,

For the Council

The President
